

CHAPTER 11

Questions of Privilege

A. Introductory

§ 1. In General

B. Privilege of the House

§ 2. In General; Definition

§ 3. Effecting Changes in House Rules or Orders

§ 4. Raising and Presenting the Question

§ 5. Time for Consideration; Precedence of the Question

§ 6. Recognition to Offer; Determinations as to Validity

§ 7. Consideration and Debate; Referral to Committee

C. Basis of Questions of Privilege of the House

§ 8. General Criticism of Legislative Activity

§ 9. Charges Involving Members

§ 10. Charges Involving House Officers or Employees

§ 11. Correcting the Record; Expungement of Words Uttered in Debate

§ 12. Enforcement of Committee Orders and Subpenas

§ 13. Invasion of House Jurisdiction or Prerogatives

§ 14. Service of Process on Members

§ 15. Service of Grand Jury Subpena

§ 16. Service of Process on House, Its Officers, or Employees

§ 17. Service of Process on Committee Chairmen and Employees

§ 18. Authorization to Respond to Process

§ 19. Providing for Legal Counsel

Commentary and editing by John R. Graham, Jr., J.D.

D. Personal Privilege of Member

- § 20. In General; Definition
- § 21. Raising the Question; Procedure
- § 22. Debate on the Question; Speeches
- § 23. Precedence of the Question; Interrupting Other Business

E. Basis of Questions of Personal Privilege

- § 24. Introductory; General Opinion or Criticism
- § 25. Charges Before a Governmental Agency or Committee
- § 26. Charges by Fellow Member
- § 27. Words Uttered in Debate; Charges Inserted in the Record
- § 28. Published Charges of Impropriety
- § 29. Published Charges of Illegality
- § 30. Published Charges Involving Legislative Conduct
- § 31. Published Charges Involving Patriotism
- § 32. Published Charges Impugning Veracity
- § 33. Criticism of Members Collectively

INDEX TO PRECEDENTS

Abuse of House powers or institutions, § 30.8
Adjournment, questions of privilege pending at, § 5.5
Alteration of official transcript, charge of, § 25.2
Appeal from Speaker's ruling, § 6.3
Calendar Wednesday business, precedence of questions of privilege over, § 5.7
Character of Member, charges concerning
 atomic secrets, divulging, § 26.2
 Communist Party affiliation, § 25.1
 ethnic slur, § 28.4
 hearing transcripts, altered, submitting, § 25.2

Character of Member, charges concerning—Cont.
 making oneself a “damn fool” § 26.1
 questionable business affiliations, §§ 26.3, 28.3
 “vote selling,” § 28.1
Charges concerning Congress, resolution for investigation of, § 8.3
Charges concerning the House, resolution for investigation of, § 8.4
Charges made against other Members, § 9.2
Charges or criticism involving unnamed Members, §§ 26.1, 26.2, 33.1, 33.2
Committee chairman, improprieties as, § 30.11

Committee employee, criticism of, § 10.3**Committee of the Whole**

questions of personal privilege raised in, § 21.4

questions of the privilege of the House raised in, § 4.3

Committee reports relating to questions of privilege

applicability of three-day rule concerning, § 5.10

witness' refusal to be sworn, § 12.2

witness' refusal to respond to subpoena duces tecum, § 12.3

Committee responsibilities, avoidance of, § 30.14**Committee witnesses, warrants detaining, § 12.1****Communist Party affiliation, charge of, § 25.1****Congress, criticism of, § 8.1****Congressional Record, expurgations**

offensive articles, documents, or speech, inserted in, §§ 11.4, 11.5

offensive House debate in, §§ 11.2, 11.3

offensive Senate debate in, § 11.1

remarks inserted in, through abuse of leave to print, § 11.7

remarks inserted without authorization in, § 11.8

unparliamentary language inserted in, under leave to extend, § 11.6

Congressional Record, resolution to correct inaccuracies in, § 11.9**Congressional Record, resolution to restore remarks previously expunged from, § 11.10****Congressional Record, transcript of, submitted to the Speaker, § 21.2****Counsel, appointment of**

by Clerk, § 19.3

by House committee, § 19.2

by Speaker, § 19.1

Court orders

publication of committee report restrained by, § 13.3

service of, on Members, §§ 14.9, 14.10

Criticism of Members

generally, § 8.2

resolution for investigation of, § 9.2

Debate, offensive remarks uttered during

in relation to questions of personal privilege, § 27.1

Debate, scope of

in relation to questions of personal privilege, § 22.5

response to Member who raises question, § 22.2

Deceptive conduct, charge of, § 30.2**Deposition, notice of, served on Clerk, § 16.18****Discovery orders**

issuance of, for committee papers, § 17.9

service of, on committee employees, § 17.10

District of Columbia business, precedence of question of privilege over, § 5.8**Doorkeeper, criticism of, § 10.2****Employees, committee, service of interrogatories on, § 17.10****Executive invasion of House prerogatives, § 13.2****Executive officer, improper attempt by, to influence Member, § 9.1****Fascist sympathies, charge of, § 31.4****Grounds for question of personal privilege, statement of, § 21.1****Hour rule on debate, applicability of to questions of personal privilege, § 22.1**

to questions of the privilege of the House, § 7.1

House floor, control of, when questions of personal privilege arise, §§ 23.2, 23.3

House orders, collateral attack on, §3.2**House rules, effecting changes in, §3.1****Illegality, charges of, concerning Members**

criminal conspiracy, perjury, and tax evasion, §29.5

fees, receipt of, §29.3

forgery, §29.2

sedition, §29.6

tax irregularities, §29.4

unspecified illegal acts, §29.1

Innuendos as raising question of privilege, §31.1**Interrogatories, service of, on committee employees, §17.10****Journal**

interruption of reading of, for questions of privilege, §5.6

precedence of reading of, over questions of personal privilege, §23.1

Judicial invasion of House prerogatives, §13.3**Legislative actions or record, criticism of, §24.1****Motion for adjournment, precedence of, over questions of privilege, §§5.1, 5.2****Motion for the previous question**

applicability of, to questions of the privilege of the House, §7.3

precedence of questions of privilege over, §5.9

Official conduct of Members, charges concerning

abuse of franking privilege, §30.18

abuse of powers or rank, §§30.8–30.10

accusation of traitorous acts, §26.5

conflicts of interest, §§30.6, 30.7

“cynical politicking” and “shabby conduct,” §27.7

derelection of duties, §30.3

Official conduct of Members, charges concerning—Cont.

“disgraceful” conduct, §§30.15, 30.16

evidence, confiscating, §30.4

improper conduct in agency dealings, §30.17

irresponsibility, §30.12

making “intemperate, vituperative and libelous” attack, §27.9

“making suckers” out of the taxpayers, §27.8

misuse of public funds, §30.1

placing “scurrilous” matter in the Record, §27.4

“pork barrel” provisions, §27.6

promoting religious strife, §27.5

“sneaking” something over on the House, §30.2

war controls, actions detrimental to, §30.5

Official conduct of Members, criticism of, §§8.2, 24.1 et seq.**One-minute speech, use of, as related to questions of personal privilege, §22.4****Patriotism of Members, charges concerning**

activities detrimental to national security, §§31.12 et seq.

collaborating with a foreign enemy, §§31.14 et seq.

fascist sympathies, §§31.4 et seq.

generalized allegations, §§31.1–31.3

innuendos reflecting on patriotism, §§31.1 et seq.

sedition, §29.6

Political influence, exercise of, as improper, §26.3**Prima facie showing as to question of privilege, §4.1****Procedure, effecting changes in, §3.3****Process, response to, authorization for, §18.1**

Questions of the privilege of the House

appeal from Speaker's determination of, § 6.3

consideration of, by House committee, 57.4

determination of, by Speaker, §§ 6.1, 6.2

prima facie showing necessary for, § 4.1

Recognition of Member on question of privilege, Speaker's power as to, § 6.1

Religious strife, promotion of, § 27.5

Resolution, questions of the privilege of the House raised by, § 4.2

Resolutions relating to critical publications, §§ 8.3, 8.4

Response to Member who raises question, § 22.2

Revenue legislation, interference with House power to originate, § 13.1

Rude conduct, allegations of, on the part of House employees, § 10.2

Security risk, charging Member as being, § 31.12

Senate debate, expungement of, by House resolution, § 11.1

Senate invasion of House prerogatives, § 13.1

Senator's criticism of House Member, § 27.6

Special-order speech as alternative to question of personal privilege, § 22.3

Strike-breaking activities, charge of, § 27.3

Subpena

authorization for response to, §§ 18.1–18.4

court-martial issuance of, to Clerk, § 16.17

executive agency, issuance by, to Member, § 14.8

Subpena—Cont.

modification of, after service, § 14.3

Subpena, issuance of, to

Clerk, §§ 16.7–16.9

committee chairmen, §§ 17.2–17.4

committee employees, §§ 17.5, 17.6

Doorkeeper, § 16.10

House employee, § 16.13

Members, §§ 14.2 et seq.

Sergeant at Arms, §§ 16.11, 16.12

Subpenas issued by grand jury to

Clerk, § 16.14

committee chairman, § 17.7

committee employee, § 17.8

House employee, § 16.16

Members, §§ 15.1, 15.2

Sergeant at Arms, § 16.15

Summons, service of, on

Capitol Architect, § 16.6

chairman of committee, § 17.1

Clerk, § 16.3

House, § 16.1

Member, § 15.2

Sergeant at Arms, § 16.4

Speaker, § 16.2

Traitorous acts, allegation of, § 26.5

Unauthorized action by committee employee, allegation of, § 10.3

Unnamed Members. criticism of, §§ 26.1, 33.1

Veracity of Members, charges concerning

charge of distorting the President's words, by fellow Member, § 27.10

echoing a fascist lie, § 27.11

misleading the public, § 33.1

presenting falsehoods, § 32.1

stating a "lie," §§ 26.7, 27.12, 32.2

Vote, improper attempt to influence, § 9.1

Questions of Privilege

A. INTRODUCTORY

§ 1. In General

The tradition of Anglo-American parliamentary procedure recognizes the privileged status of questions related to the honor and security of a deliberative body and its members. The House has accorded privileged status to such questions by Rule IX,⁽¹⁾ which provides:

Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members, individually, in their representative capacity only; and shall have precedence of all other questions, except motions to adjourn.⁽²⁾

1. *House Rules and Manual* §661 (1973). For pre-1936 rulings on questions of privilege, see 3 Hinds' Precedents §§2521-2725, and 6 Cannon's Precedents §§553-622.
2. See 3 Hinds' Precedents §2521, noting that the object of Rule IX was to

Pursuant to the rule, questions of privilege are divided into two classes—the first pertaining to the House collectively, the second pertaining to the Members individually. Whenever a question of privilege is properly raised on the floor by a Member, the Speaker must entertain the question and rule on its admissibility. And the disposition of such questions must precede the consideration of any other question except the motion to adjourn.⁽³⁾

prevent the loss of time which had theretofore resulted from Members' obtaining the floor for a speech under the pretext of raising a question of privilege.

3. Precedence of the question, see §5, *infra*.

B. PRIVILEGE OF THE HOUSE

§ 2. In General; Definition

Under Rule IX,⁽⁴⁾ a question of the privilege of the House arises whenever its safety, dignity, or the integrity of its proceedings, is in issue. The question having been properly raised by the offering of a resolution, the Speaker initially decides whether the question presented constitutes a question of the privilege of the House. And, as the presiding officer of the House, it is customary for him to make a preliminary determination as to the validity of the question raised.⁽⁵⁾ Appeal may be taken from the Chair's ruling, however, since the final determination regarding the validity of such a question of privilege rests with the House.⁽⁶⁾

Debate in the House on a question of privilege is limited to one hour⁽⁷⁾ and may, like debate on other matters, be terminated by the adoption of a motion for the previous question.⁽⁸⁾ Of course, the House may choose not to undertake consideration of a question of the privilege of the House, prefer-

ring instead to table or to commit the matter to a designated House committee for its study and recommendations before debate begins.⁽⁹⁾

§ 3. Effecting Changes in House Rules or Orders

Change in House Rules

§ 3.1 A question of the privilege of the House may not be raised to effect a change in the rules of the House.

On May 24, 1972,⁽¹⁰⁾ during proceedings incident to the receipt of a report from the Committee of the Whole House on the state of the Union, Ms. Bella S. Abzug, of New York, as a "question of privilege of rule IX" submitted the following resolution:

H. RES. 1003

Resolved, That on May 24, 1972, at the hour of three forty-five postmeridian the House shall stand in recess for fifteen minutes in order that it may hear and receive petition for redress of grievances relative to the war in Indochina to be presented by a cit-

4. *House Rules and Manual* §661 (1973).

5. See §§6.1, 6.2, *infra*.

6. See §6.3, *infra*.

7. See §7.1, *infra*.

8. See §7.3, *infra*.

9. See §7.4, *infra*.

10. 118 CONG. REC. 18675, 92d Cong. 2d Sess. For an additional example see 79 CONG. REC. 14667-69, 74th Cong. 1st Sess., Aug. 24, 1935.

izen of the United States and further resolved that in order to present such petition, the said citizen be permitted on the floor of the House during such recess.

Mr. Hale Boggs, of Louisiana, then made the point of order that the resolution was not a privileged resolution. Following debate on the point of order, the Speaker⁽¹¹⁾ in his ruling on the point of order said:

The gentlewoman is out of order. The Chair cannot permit the gentlewoman to speak out of order.

The Chair has been very lenient in permitting the gentlewoman to debate her point of order, but the point of order is obviously in order.

The gentlewoman undertakes to change the rules of the House or to make an exception without unanimous consent and without a special order of the House.

The point of order is sustained, and the gentlewoman is out of order.

Change in House Orders

§ 3.2 It is not in order by way of a point of personal privilege or by raising a question of the privilege of the House to collaterally attack an order properly adopted by the House at a previous time, the proper method of reopening the matter being by motion to reconsider the vote

11. Carl Albert (Okla.).

whereby such action was taken.

On Feb. 13, 1941,⁽¹²⁾ Mr. Clare E. Hoffman, of Michigan, rose to a question of the privilege of the House and submitted a resolution requesting the restoration to the Record of certain remarks made by him and Mr. Samuel Dickstein, of New York, during the previous day's proceedings. Such remarks had been deleted by the House pursuant to the adoption of a motion to expunge made by Mr. John E. Rankin, of Mississippi. Following debate, an inquiry was heard from Mr. Hoffman as to whether the Chair had ruled on the question of the privilege of the House. Responding to the inquiry, the Speaker⁽¹³⁾ stated:

The House would have to decide that, and, in the opinion of the Chair, the House did decide the matter when it expunged the remarks from the Record. The Chair thinks, under the circumstances, that the proper way to reopen the question would be by a motion to reconsider the vote whereby the motion of the gentleman from Mississippi [Mr. Rankin] was adopted. The Chair is of the opinion that inasmuch as the question raised by the gentleman from Michigan was decided by a vote of the House on a proper motion, that he does not now present a question of privilege of the House or of personal privilege.

12. 87 CONG. REC. 979, 980, 77th Cong. 1st Sess.

13. Sam Rayburn (Tex.).

Parliamentarian's Note: On the legislative day of Oct. 8, 1968,⁽¹⁴⁾ after repeated quorum calls and other delay pending approval of the Journal, a motion was adopted ordering a call of the House upon disclosure of the absence of a quorum. Thereupon another motion was adopted (before the quorum call commenced) directing that those Members who were not then present be returned to the Chamber and not permitted to leave until the pending business (approval of the Journal) be completed. No point of order was raised against that motion, although it was agreed to by less than a quorum, and no motion to reconsider was subsequently entered against the motion. Subsequently, during the continued reading of the Journal, Mr. Robert Taft, Jr., of Ohio, as a matter both of personal privilege and of the privileges of the House, moved that he and all other Members in the Chamber who had been there at the time of the last quorum call be permitted to leave the Chamber at their desire. While the Speaker⁽¹⁵⁾ declined to entertain the motion as a question of privilege based upon Mr. Taft's conten-

tion that under the Constitution and rules the freedom of Members who were present should not be restricted, the specific argument was not made that the order had been agreed to by less than a quorum or that it was directed only to the attendance of absentees and not to those present in the Chamber. This precedent does not, then, stand for the proposition that an improper order of the House or the manner of execution of an order of the House can never be collaterally attacked as a matter of the privilege of the House—it merely suggests that the proper contention was not made when the question of privilege was raised.

Change in Conference Procedure

§ 3.3 A question of the privilege of the House may not be raised to criticize or effect a change in conference procedure.

On July 29, 1935,⁽¹⁶⁾ Mr. George Huddleston, of Alabama, sub-

14. 114 CONG. REC. 30214, 30215, 90th Cong. 2d Sess. (calendar day Oct. 9, 1968).

15. John W. McCormack (Mass.).

16. 79 CONG. REC. 12007–13, 74th Cong. 1st Sess. For further examples see 104 CONG. REC. 12690, 12691, 85th Cong. 2d Sess., June 30, 1958; 103 CONG. REC. 14737–39, 85th Cong. 1st Sess., Aug. 14, 1957; and 84 CONG. REC. 1367–70, 76th Cong. 1st Sess., Feb. 14, 1939.

mitted as a question of the privilege of the House, a resolution⁽¹⁷⁾ instructing certain House conferees to insist upon the exclusion from subsequent conference committee meetings of several experts and counsel who were present during a previous committee meeting at the insistence of the Senate conferees. A point of order was then made by Mr. John E. Rankin, of Mississippi, that the resolution did not state a question of the privilege of the House and further said:

To say that the Senate committee, when it brings its experts to advise them and to assist them in working out the parliamentary or the legislative problems involved, is a matter that goes to the integrity of the proceedings of the House of Representatives I submit does not meet the requirement; and therefore the resolution is not privileged. If they want to come in and ask new instructions, and give the House the right to vote on the instructions or what those instructions are to be, that might be a different proposition, but that would not be a question of the privilege of the House.

Debate ensued, at the conclusion of which the Speaker⁽¹⁸⁾ in sustaining the point of order, stated:⁽¹⁹⁾

The Chair does not wish to be understood as passing on the merits of the

question, because that is not within the province of the Chair, but the Chair thinks there is a distinction between an assault upon a member of a conference committee, as the gentleman from Alabama has suggested, and the attendance at a session of a conference committee of an employee of the Government upon the invitation of the conferees of one House. The Chair thinks that that is a matter of procedure that should be determined by the conferees. In the event that the conferees are unable to agree, it seems to the Chair that the remedy is provided in rule XXVIII. The Chair does not believe that under the facts stated a question of privilege is involved. The Chair, therefore, sustains the point of order.

§ 4. Raising and Presenting the Question

Prima Facie Showing

§ 4.1 The mere statement that the privilege of the House has been violated and transgressed, unsupported by a further showing of a prima facie violation or breach of the privilege of the House, does not properly present a question of privilege.

On Feb. 18, 1936,⁽²⁰⁾ Mr. Marion A. Zioncheck, of Washington,

17. H. Res. 311.

18. Joseph W. Byrns (Tenn.).

19. 79 CONG. REC. 12013, 74th Cong. 1st Sess.

20. 80 CONG. REC. 2312, 2313, 74th Cong. 2d Sess. For further illustration see 88 CONG. REC. 2005, 77th Cong. 2d Sess., Mar. 6, 1942.

submitted as a question of privilege the following resolution:

Resolved, That the gentleman from New York, Mr. Taber, violated and transgressed the privileges of the House Monday, February 17, 1936.

A point of order was then made by Mr. Frederick R. Lehlbach, of New Jersey, asserting that the resolution did not raise a question of the privilege of the House. In his ruling, sustaining the point of order, the Speaker⁽²¹⁾ stated:

The Chair thinks the point of order is well taken. The resolution does not set out a question of privilege.

Raised by Resolution

§ 4.2 Questions of privilege of the House are raised by resolution.

On Sept. 5, 1940,⁽²²⁾ Mr. Clare E. Hoffman, of Michigan, rising to

Note: The resolution quoted above was apparently in response to remarks by Mr. John Taber [N.Y.], made on the preceding day, in which he criticized an alleged abuse by Mr. Zioncheck of the privilege of extending remarks in the Record. See 80 CONG. REC. 2201, 74th Cong. 2d Sess., Feb. 17, 1936.

21. Joseph W. Byrns (Tenn.).

22. 86 CONG. REC. 11552, 11553, 76th Cong. 3d Sess. For further illustrations see 86 CONG. REC. 5111, 5112, 5114, 76th Cong. 3d Sess., Apr. 26, 1940; 80 CONG. REC. 2201, 74th Cong. 2d Sess., Feb. 17, 1936; 79

a question of the privilege of the House, sought recognition to make a statement. A point of order was made by Mr. John E. Rankin, of Mississippi, that in order to obtain recognition on a question of the privilege of the House a Member must first offer a resolution. Following the subsequent parliamentary inquiry by Mr. Hoffman inquiring whether in fact he was required to offer a resolution before stating his question, the Speaker⁽¹⁾ stated:

The gentleman must offer his resolution first, under the rule.

In Committee of the Whole

§ 4.3 A question of the privilege of the House based upon proceedings in the House may not be raised in the Committee of the Whole.

On May 24, 1972,⁽²⁾ after the House had gone into the Committee of the Whole, the following proceedings occurred:

THE CHAIRMAN:⁽³⁾ For what purpose does the gentlewoman from New York rise?

MRS. [BELLA S.] ABZUG: Mr. Chairman, I rise to make a resolution con-

CONG. REC. 5454, 5455, 74th Cong. 1st Sess., Apr. 11, 1935.

1. William B. Bankhead (Ala.).

2. 118 CONG. REC. 18675, 92d Cong. 2d Sess.

3. John M. Murphy (N.Y.).

cerning a question of privilege on rule IX.

THE CHAIRMAN: The gentlewoman is not in order.

MR. [JOHN J.] MCFALL [of California]: Mr. Chairman, I make a point of order against the resolution.

MRS. ABZUG: Mr. Chairman, a question of privilege under rule IX in my understanding is in order at any time and it takes precedence over any other.

THE CHAIRMAN: The Chair states the gentlewoman is not correct. Question[s] of privilege of the House may not be raised in the Committee of the Whole.

§ 5. Time for Consideration; Precedence of the Question

Precedence of Motions to Adjourn

§ 5.1 A question of privilege is not entertained pending a vote on a motion to adjourn.

On Apr. 15, 1970,⁽⁴⁾ following a point of order objecting to a vote on a motion to adjourn based on the absence of a quorum, Mr. Louis C. Wyman, of New Hampshire, rose to a question of "privilege." The Speaker pro tempore⁽⁵⁾ indicated that the pendency of the motion to adjourn precluded the entertainment of the question.⁽⁶⁾

4. 116 CONG. REC. 11940, 11941, 91st Cong. 2d Sess.

5. Charles M. Price (Ill.).

6. By explicit provision Rule IX, *House Rules and Manual* §661 (1973),

§ 5.2 The House may adjourn pending a decision on a question of privilege of the House.

On June 5, 1940,⁽⁷⁾ Mr. Hamilton Fish, Jr., of New York, offered a resolution⁽⁸⁾ raising a question of the privilege of the House. A point of order that a quorum was not present was then made by Mr. William P. Cole, of Maryland. When the count of the House by the Speaker⁽⁹⁾ disclosed the absence of a quorum, the House agreed to a motion offered by Mr. Sam Rayburn, of Texas, adjourning until the following day.

Precedence of Question of Privilege

§ 5.3 Parliamentarian's Note: A question of privilege has priority over all other questions except motions to adjourn,⁽¹⁰⁾ and supercedes the consideration of the original question

mandates that questions of privilege "shall have precedence of all other questions, except motions to adjourn."

7. 86 CONG. REC. 7633, 76th Cong. 3d Sess.

8. H. Res. 510.

9. William B. Bankhead (Ala.).

10. Rule IX, *House Rules and Manual* §661 (1973), and 3 Hinds' Precedents §2521.

and must be disposed of first.⁽¹¹⁾

Precedence of Prior Question of Privilege

§ 5.4 At a time when a question of privilege is pending in the House, a Member will not be recognized to present another question of privilege.

On May 28, 1936,⁽¹²⁾ Mr. C. Jasper Bell, of Missouri, offered a privileged resolution⁽¹³⁾ raising a question of the privileges of the House. Thereafter, Mr. Joseph P. Monaghan, of Montana, sought recognition to raise a point of personal privilege and of the privilege of the House. Declining to extend recognition, the Speaker⁽¹⁴⁾ stated:⁽¹⁵⁾

The question now pending is a question of the privilege of the House, and that takes precedence over the question of privilege of the gentleman from Montana. There can be only one question of privilege before the House at a time, and one is now pending.

11. *House Rules and Manual*, Jefferson's Manual §458, and annotation to Rule IX, §664 (1973); and 3 Hinds' Precedents §2522.
12. 80 CONG. REC. 8222, 74th Cong. 2d Sess. For a similar example see 80 CONG. REC. 5704-06, 74th Cong. 2d Sess., Apr. 20, 1936.
13. H. Res. 532.
14. Joseph W. Byrns (Tenn.).
15. 80 CONG. REC. 8222, 74th Cong. 2d Sess., May 28, 1936.

Question of Privilege as Unfinished Business

§ 5.5 A question of the privilege of the House pending at the time of adjournment becomes the unfinished business on the next day.

On Aug. 27, 1940,⁽¹⁶⁾ the House adjourned during debate on a resolution involving the question of the privilege of the House offered by Mr. Jacob Thorkelson, of Montana. At the commencement of the succeeding day's business the Speaker⁽¹⁷⁾ stated:

The unfinished business before the House is the question of the privilege of the House raised by the gentleman from Montana. Does the gentleman from Montana desire to be recognized?

Precedence as to the Journal

§ 5.6 The Speaker indicated that, unlike a question of personal privilege, a question of the privilege of the House could interrupt the reading of the Journal.

On the legislative day of Oct. 8, 1968,⁽¹⁸⁾ during the reading of the

16. 86 CONG. REC. 11046-49, 76th Cong. 3d Sess. For an additional example see 112 CONG. REC. 27641, 89th Cong. 2d Sess., Oct. 19, 1966.
17. William B. Bankhead (Ala.).
18. 114 CONG. REC. 30214-16, 90th Cong. 2d Sess., Oct. 9, 1968 (calendar day).

Journal the following proceedings occurred:

MR. [ROBERT] TAFT [Jr., of Ohio]: Mr. Speaker—

THE SPEAKER:⁽¹⁹⁾ For what purpose does the gentleman from Ohio rise?

MR. TAFT: Mr. Speaker, I have a privileged motion.

MR. [SIDNEY R.] YATES [of Illinois]: A point of order, Mr. Speaker. That is not in order until the reading of the Journal has been completed.

THE SPEAKER: Will the gentleman from Ohio state his privileged motion?

MR. TAFT: Mr. Speaker, my motion is on a point of personal privilege.

THE SPEAKER: Will the gentleman from Ohio state whether it is a point of personal privilege or a privileged motion?

MR. TAFT: It is a privileged motion, and a motion of personal privilege.

Under rule IX questions of personal privilege are privileged motions, ahead of the reading of the Journal.

THE SPEAKER: The Chair will advise the gentleman that a question of personal privilege should be made later after the Journal has been disposed of.

If the gentleman has a matter of privilege of the House, that is an entirely different situation.

MR. TAFT: I believe, Mr. Speaker, this involves not only personal privilege as an individual, but also as a Member of the House and also the privileges of all Members of the House.

THE SPEAKER: The Chair does not recognize the gentleman at this time on a matter of personal privilege.

But the Chair will, after the pending matter, the reading of the Journal has

been disposed of, recognize the gentleman if the gentleman seeks recognition.

Precedence Over Calendar Wednesday Business

§ 5.7 A matter involving the privilege of the House takes precedence over the continuation of the call of committees under the Calendar Wednesday rule.

On Feb. 8, 1950,⁽²⁰⁾ during the call of committees pursuant to the Calendar Wednesday rule,⁽¹⁾ the following proceedings occurred:

MR. [VITO] MARCANTONIO [of New York]: Mr. Speaker, a point of order.

THE SPEAKER.⁽²⁾ The gentleman will state it.

MR. MARCANTONIO: Mr. Speaker, this is Calendar Wednesday, and I ask that the business of Calendar Wednesday proceed. I submit that the regular order is the continuation of the call of committees by the Clerk.

THE SPEAKER: The Chair at this time is going to lay before the House a matter of highest privilege.

The Speaker then laid before the House as a matter involving the privileges of the House a communication from the Clerk of the House reporting the receipt of a

19. John W. McCormack (Mass.).

20. 96 CONG. REC. 1695, 81st Cong. 2d Sess.

1. Rule XXIV clause 7, *House Rules and Manual* §897 (1973).

2. Sam Rayburn (Tex.).

subpena duces tecum from a U.S. district court.

Precedence Over District of Columbia Business

§ 5.8 A resolution involving a question of the privilege of the House takes precedence over District of Columbia business under Rule XXIV clause 8.

On Dec. 14, 1970,⁽³⁾ it being the day set aside by House rule⁽⁴⁾ for consideration of District of Columbia business, the House nevertheless entertained a resolution⁽⁵⁾ concerning the printing and publishing of a report of the Committee on Internal Security presented by Mr. Richard H. Ichord, of Missouri, as a matter involving the question of the privilege of the House. Mr. Ichord stated in part as follows:

I rise to a question of privilege in a matter affecting the rights of the House collectively, the integrity of its proceedings, and the rights of the Members in their respective capacity. See House rule XI. As you know, this question comes before us as a consequence of proceedings instituted on October 13, 1970, in the U.S. District

Court for the District of Columbia to enjoin the filing, printing, publishing, and dissemination of a report of the House Committee on Internal Security (No. 91-1607), titled "Limited Survey of Honoraria Given Guest Speakers for Engagements at Colleges and Universities," which I reported to the House on October 14. On October 28, 1970, a single judge of that court . . . entered a final order permanently enjoining the Public Printer and the Superintendent of Documents from printing and distributing any copy of the report, or any portion, restatement, or facsimile thereof, and declared that any publication of the report at public expense would be illegal. . . .

Never in the constitutional history of this Nation . . . has any court of the United States . . . sustained any such final restraint upon the printing and dissemination of a report of a committee of the Congress.

Precedence Over Motion for the Previous Question

§ 5.9 A resolution properly asserting a question of the privilege of the House could take precedence over a motion for the previous question on a bill already reported from the Committee of the Whole.

On May 24, 1972,⁽⁶⁾ the Committee of the Whole House on the state of the Union rose and reported to the House a bill⁽⁷⁾ con-

3. 116 CONG. REC. 41355, 41358, 91st Cong. 2d Sess.

4. Rule XXIV clause 8, *House Rules and Manual* § 899 (1973).

5. H. Res. 1306.

6. 118 CONG. REC. 18675, 92d Cong. 2d Sess.

7. H.R. 15097.

cerning certain appropriations for the Department of Transportation. Thereafter, prior to consideration of the motion for the previous question on the bill made by Mr. John J. McFall, of California, Ms. Bella S. Abzug, of New York, submitted a resolution⁽⁸⁾ asserting as a question of privilege of the House that the House recess for the purpose of receiving a petition for the redress of certain grievances. After the resolution was read, the Speaker⁽⁹⁾ sustained a point of order that the resolution did not state a question of the privileges of the House.⁽¹⁰⁾

Application of Three-day Rule Regarding Committee Reports

§ 5.10 A committee report submitted as a matter involving the privileges of the House, as distinguished from a report merely privileged under the rules, may be considered on the same day reported notwithstanding the requirement by House rule that committee reports be available to Members at least three calendar days prior to their consideration.

8. H. Res. 1003.

9. Carl Albert (Okla.).

10. See § 3.1, *supra*.

On July 13, 1971,⁽¹¹⁾ Mr. Harley O. Staggers, of West Virginia, rising to a question of the privilege of the House, sought to submit and call up for immediate consideration a report⁽¹²⁾ of the Committee on Interstate and Foreign Commerce on the contemptuous conduct of a witness in refusing to respond to a subpoena duces tecum issued by the committee. A point of order was then raised by Mr. Sam M. Gibbons, of Florida, that consideration of the matter violated a House rule⁽¹³⁾ requiring committee reports to be available to Members for at least three calendar days prior to their consideration. Following some debate, the Speaker⁽¹⁴⁾ in overruling the point of order stated:

The Chair has studied clause 27(d)(4) of rule XI and the legislative history in connection with its inclusion in the Legislative Reorganization Act of 1970. That clause provides that "a matter shall not be considered in the House unless the report has been available for at least 3 calendar days."

The Chair has also examined rule IX, which provides that:

Questions of privilege shall be, first, those affecting the rights of the

11. 117 CONG. REC. 24720-23, 92d Cong. 1st Sess.

12. H. REPT. NO. 92-349.

13. *House Rules and Manual* § 735 (1973).

14. Carl Albert (Okla.).

House collectively, its safety, dignity, and the integrity of its proceedings . . . and shall have precedence of all other questions, except motions to adjourn.

Under the precedents, a resolution raising a question of the privileges of the House does not necessarily require a report from a committee. Immediate consideration of a question of privilege of the House is inherent in the whole concept of privilege. When a resolution is presented, the House may then make a determination regarding its disposition.

When a question is raised that a witness before a House committee has been contemptuous, it has always been recognized that the House has the implied power under the Constitution to deal directly with such conduct so far as is necessary to preserve and exercise its legislative authority. However, punishment for contemptuous conduct involving the refusal of a witness to testify or produce documents is now generally governed by law—Title II, United States Code, sections 192–194—which provides that whenever a witness fails or refuses to appear in response to a committee subpoena, or fails or refuses to testify or produce documents in response thereto, such fact may be reported to the House. Those reports are of high privilege.

When a resolution raising a question of privilege of the House is submitted by a Member and called up as privileged, that resolution is also subject to immediate disposition as the House shall determine.

The implied power under the Constitution for the House to deal directly with matters necessary to preserve and exercise its legislative authority; the

provision in rule IX that questions of privilege of the House shall have precedence of all other questions; and the fact that the report of the committee has been filed by the gentleman from West Virginia as privileged—all refute the argument that the 3-day layover requirement of clause 27(d)(4) applies in this situation.

The Chair holds that the report is of such high privilege under the inherent constitutional powers of the House and under rule IX that the provisions of clause 27(d)(4) of rule XI are not applicable.

Therefore, the Chair overrules the point of order.

§ 6. Recognition to Offer; Determinations as to Validity

Speaker's Power to Recognize Member

§ 6.1 Questions asserted to involve the privilege of the House are addressed to the Speaker; and he may refuse recognition if the resolution is not shown to be admissible as a question of privilege under the rule.

On the legislative day of Oct. 8, 1968,⁽¹⁵⁾ Mr. Robert Taft, Jr., of Ohio, presented a resolution pur-

15. 114 CONG. REC. 30214, 30215, 90th Cong. 2d Sess., Oct. 9, 1968 (calendar day).

portedly involving a question of the privilege of the House. However, the Speaker⁽¹⁶⁾ ruled that the Member could not be recognized for the purpose of calling up such a resolution. (See §3.2, *supra*.)

A parliamentary inquiry was then raised by Mr. Gerald R. Ford, of Michigan, questioning whether in fact the gentleman from Ohio had been recognized for the purpose of offering the resolution. Answering in the negative, the Speaker stated:⁽¹⁷⁾

THE SPEAKER: The gentleman from Michigan is well aware of the fact that the question of recognition rests with the Chair. The gentleman did not make a motion which was in order by reason of the action heretofore taken by the House.

Preliminary Determinations; Deferral of Recognition

§ 6.2 On one occasion, the Chair deferred ruling on the validity of a resolution presented as raising a question of the privilege of the House.

On May 21, 1941,⁽¹⁸⁾ Mr. Clare E. Hoffman, of Michigan, sub-

mitted a resolution purportedly raising a question of the privilege of the House. Explaining his unwillingness to immediately entertain the resolution, the Speaker⁽¹⁹⁾ said:²⁰

. . . For the moment at least the Chair would hesitate to hold that the gentleman's resolution is privileged. The Chair assures the gentleman that he would like to look into it further. He would hesitate to hold at this time that the general criticism of Members of the House is a matter so involving the privileges of the House that a resolution of this kind would be in order.

The Chair desires to look into the matter and will talk with the gentleman personally or recognize him in the House later in the day.

No further action was taken on the floor or by the Speaker.

Appeal From Speaker's Ruling

§ 6.3 On one occasion when an appeal was taken from the Speaker's decision that a resolution did not state a question of the privilege of the House, the House laid the appeal on the table, thereby sustaining the decision of the Chair.

On the legislative day of Oct. 8, 1968,⁽²¹⁾ Mr. Robert Taft, Jr., of

16. John W. McCormack (Mass.).

17. 114 CONG. REC. 30215, 90th Cong. 2d Sess., Oct. 8, 1968 (calendar day Oct. 9, 1968).

18. 87 CONG. REC. 4307, 4308, 77th Cong. 1st Sess.

19. Sam Rayburn (Tex.).

20. 87 CONG. REC. 4308, 77th Cong. 1st Sess., May 21, 1941.

21. 114 CONG. REC. 30214, 30215, 90th Cong. 2d Sess., Oct. 9, 1968 (calendar day).

Ohio, presented a resolution which he asserted raised a question involving the privilege of the House. However, the Speaker⁽²²⁾ ruled that the Member could not be recognized for the purpose of presenting such a resolution. (See §3.2, *supra*.) Mr. Taft then appealed the ruling of the Chair. Immediately thereafter, Mr. Carl Albert, of Oklahoma, moved that the appeal be laid on the table. The question was taken and, by a vote of 136 yeas to 102 nays, the motion to lay the appeal on the table was agreed to.

§ 7. Consideration and Debate; Referral to Committee

Hour Rule on Debate

§ 7.1 The hour rule applies to debate on a question of the privilege of the House.

On Feb. 6, 1950,⁽¹⁾ Mr. Clare E. Hoffman, of Michigan, following

22. John W. McCormack (Mass.).

1. 96 CONG. REC. 1514, 81st Cong. 2d Sess. For further illustration, see 116 CONG. REC. 41358, 91st Cong. 2d Sess., Dec. 14, 1970; 113 CONG. REC. 6041, 90th Cong. 1st Sess., Mar. 9, 1967; 92 CONG. REC. 5001, 79th Cong. 3d Sess., May 14, 1946; and 86 CONG. REC. 5111, 5112, 5114, 76th Cong. 3d Sess., Apr. 26, 1940.

his submission of a resolution raising a question of the privileges of the House, inquired of the Speaker⁽²⁾ as to whether he was entitled to one hour of debate. In response to the inquiry the Speaker stated, "If it is a question of the privilege of the House, the gentleman would be."

Scope of Debate or Argument

§ 7.2 A Member having been recognized on a question of the privilege of the House must confine himself to such question.

On Aug. 27, 1940,⁽³⁾ Mr. Jacob Thorkelson, of Montana, presented a resolution raising the question of personal privilege and of the privilege of the House. At issue were remarks inserted in the *Congressional Record* by Mr. Adolph J. Sabath, of Illinois. Mr. Thorkelson, in presenting the resolution, stated:

It is of the utmost importance that the Congressional Record be a true record of the proceedings of the House. The integrity of the Record is destroyed by the insertion of remarks purporting to have been made on the floor of the House, but which were not so made, when no permission has been granted by the House to insert those remarks.

2. Sam Rayburn (Tex.).

3. 86 CONG. REC. 11046, 76th Cong. 3d Sess.

The remarks which have just been quoted as having been inserted in the Record by the gentleman from Illinois [Mr. Sabath] were not made on the floor of the House and violate the rules of the House in two particulars.

First, the remarks charge that the Member from Montana had inserted 210 pages of "scurrilous matter" in the Record. "Scurrilous," among other things, means "grossly offensive," "vulgar," "opprobrious."

Such remarks reflect upon the character, the reputation, of the Member from Montana; tend to hold him up to ridicule; reflect upon his ability, his reputation, and his character in his representative capacity.

They also charge him with having inserted in the Record a forged letter.

Subsequently, the Speaker⁽⁴⁾ stated that Mr. Thorkelson's assertions did not "raise a question of veracity [but did] raise a question in reference to the Record itself, as to whether or not such permission was obtained by the gentleman from Illinois."⁽⁵⁾

Later in the proceedings, when Mr. Thorkelson sought to introduce matter relevant to the alleged imputation of untruthfulness, the following exchange took place:⁽⁶⁾

THE SPEAKER: On what phase is the gentleman addressing himself so far as

4. William B. Bankhead (Ala.).

5. 86 CONG. REC. 11049, 76th Cong. 3d Sess.

6. *Id.* at p. 11156.

the question of privilege is concerned?. . .

MR. THORKELSON: With regard to whether I have uttered truths or falsehoods. I believe that is part of my resolution.

THE SPEAKER: The Chair does not find any language in the gentleman's resolution where he is charged with an untruth or falsity. . . . The only question of privilege involved is whether or not the matter was put in without permission of the House. . . . The Chair does not desire to interrupt the continuity of the gentleman's argument, but the Chair is under some obligation to see that the gentleman conforms with the rules and discusses the matter of privilege about which he complains.

Applicability of Previous Question

§ 7.3 The previous question applies to a question of the privilege of the House.

On Apr. 26, 1940,⁽⁷⁾ Mr. Clare E. Hoffman, of Michigan, presented a resolution raising a question of the privilege of the House. Debate on the resolution then ensued. Thereafter, the Member moved the previous question on his resolution, the previous question ultimately being rejected on a division—ayes 102, noes 139.

7. 86 CONG. REC. 5111-14, 76th Cong. 3d Sess.

Referral of Question to Committee

§ 7.4 The House may refer to the Committee on Rules for consideration a question involving the privilege of the House.

On Jan. 23, 1940⁽⁸⁾ Mr. Clare E. Hoffman, of Michigan, submitted a resolution⁽⁹⁾ involving a question of the privilege of the House. Immediately thereafter, the House agreed to a motion which committed the resolution to the Committee on Rules for its consideration.

§ 7.5 The House by resolution may refer a matter to a designated committee for its determination as to whether the matter involves a question of the privilege of the House.

On Mar. 26, 1953,⁽¹⁰⁾ the House adopted a resolution⁽¹¹⁾ submitted by Mr. Charles A. Halleck, of Indiana, authorizing and directing the Committee on the Judiciary to determine whether the service of subpoenas upon certain Members, former Members, and employees of the House, relative to a civil suit, constituted a question involving the privilege of the House.

C. BASIS OF QUESTIONS OF PRIVILEGE OF THE HOUSE

§ 8. General Criticism of Legislative Activity

Criticism of Congress

§ 8.1 A newspaper editorial making a general criticism of the Congress does not present a question of per-

sonal privilege or the privilege of the House.

On Sept. 22, 1941,⁽¹²⁾ Mr. Clare E. Hoffman, of Michigan, sought to submit, as a matter presenting a question both of personal privilege and of the privilege of the House, the text of a newspaper editorial charging Congress with "inertia, cowardice, and political

8. 86 CONG. REC. 606, 76th Cong. 3d Sess.

9. H. Res. 366.

10. 99 CONG. REC. 2356-58, 83d Cong. 1st Sess. For additional illustration of the same point, see 87 CONG. REC.

8734-39, 77th Cong. 1st Sess., Nov. 10, 1941.

11. H. Res. 190.

12. 87 CONG. REC. 7500, 77th Cong. 1st Sess.

slickness," thereby detracting from the authority and respect bestowed by the Constitution. In his ruling declining recognition to the Member for the purpose of submitting the editorial in question, the Speaker⁽¹³⁾ stated:

. . . The Chair does not think that an editorial in a paper making general criticism of Congress raises a question of the privileges of the House, and certainly no Member of the House in his individual capacity is attacked in this resolution, and, therefore, the Chair must hold that this is not a question of personal privilege or a question of the privilege of the House.

Criticism of Members Generally

§ 8.2 A newspaper editorial charging Members of the House with demagoguery and willingness to punish the District of Columbia did not give rise to a question of the privilege of the House.

On May 21, 1941,⁽¹⁴⁾ Mr. Clare E. Hoffman, of Michigan, offered as a matter raising a question of the privilege of the House, a resolution requesting the appointment of a committee to investigate and report on a newspaper editorial which charged Members of the

House with demagoguery and willingness to punish the District of Columbia to win votes back home. In his ruling on the validity of the resolution as raising a question of the privilege of the House, the Speaker⁽¹⁵⁾ stated:

. . . For the moment at least the Chair would hesitate to hold that the gentleman's resolution is privileged. The Chair assures the gentleman that he would like to look into it further. He would hesitate to hold at this time that the general criticism of Members of the House is a matter so involving the privileges of the House that a resolution of this kind would be in order.

No further floor action was taken by the Speaker with respect to this resolution.

Resolutions Relating to Critical Publications

§ 8.3 A resolution providing for an investigation of newspaper charges, including allegations of criminal conduct by the Congress, was presented as a question of the privilege of the House.

On Nov. 28, 1941,⁽¹⁶⁾ Mr. Clare E. Hoffman, of Michigan, presented as a question of the privilege of the House a resolution⁽¹⁷⁾

13. Sam Rayburn (Tex.).

14. 87 CONG. REC. 4307, 4308, 77th Cong. 1st Sess.

15. Sam Rayburn (Tex.).

16. 87 CONG. REC. 9194, 9195, 77th Cong. 1st Sess.

17. H. Res. 349.

seeking the factual basis for a newspaper article charging Congress with lack of courage, with being “yellow,” with having “sold the country out for a few lousy jobs,” with “protecting Communists,” and with aiding in “the robbery, extortion, physical brutality and arrogant suppression of citizens’ plain rights by groups of thugs, thieves, and anti-American conspirators in the service of the Kremlin.”

Mr. Hoffman then received the consent of the House that consideration of this resolution be reserved until the next legislative day, Dec. 1.⁽¹⁸⁾ At that time the resolution was referred to the Committee on the Judiciary.

§ 8.4 A resolution calling for a committee investigation of newspaper charges that the House was being influenced by mobs was presented as a question of the privilege of the House.

On Mar. 29, 1954,⁽¹⁹⁾ Mr. Clare E. Hoffman, of Michigan, offered as a matter raising a question of the privilege of the House a resolution⁽²⁰⁾ requesting the appoint-

ment of a committee to ascertain the facts concerning and make recommendations for action in relation to a newspaper article charging that “mobs appear to have enough influence to reach into the House of Representatives to kill probes into labor racketeering.” Following some discussion of the resolution a motion was adopted referring the resolution to the Committee on the Judiciary.

§ 9. Charges Involving Members

Charges by a Member

§ 9.1 A resolution providing for an investigation of charges by a Member that an executive officer improperly attempted to influence the Member’s vote presents a question involving the privilege of the House.

On July 2, 1935,⁽¹⁾ Mr. Hamilton Fish, Jr., of New York, presented as a question of the privilege of the House a resolution⁽²⁾ declaring that Mr. Ralph Brewster, of Maine, had stated that he had been approached by a federal officer and told that if he (Brewster) did not vote against a provi-

18. 87 CONG. REC. 9256–60, 77th Cong. 1st Sess.

19. 100 CONG. REC. 3968–71, 83d Cong. 2d sess.

20. H. Res. 482.

1. 79 CONG. REC. 10669–71, 74th Cong. 1st Sess.

2. H. Res. 285.

sion in the so-called "Federal Power Act," certain funds allocated for public works in his home district would be withheld.

A point of order was made by Mr. Thomas L. Blanton, of Texas, that the resolution was not privileged. The Speaker⁽³⁾ in his ruling on the point of order, stated:

. . . The gentleman from Maine [Mr. Brewster] has made certain serious charges. It is not necessary, of course, for the Chair to pass on the charges. That is a matter for the House to determine. But the Chair does feel that in view of the statements made by the gentleman from Maine on his own responsibility as a Member of this House, as well as those contained in the pending resolution, that if such statements are found to be correct, then it seems to the Chair that the integrity of the proceedings of this House have been seriously interfered with. The Chair, therefore, thinks that the resolution presents a question of the privilege of the House, and overrules the point of order.

Charges Concerning Member Generally

§ 9.2 A resolution for the investigation of charges by a Member concerning fellow Members, accusing them of giving away atomic secrets, raises a question of the privilege of the House.

3. Joseph W. Byrns (Tenn.).

On May 5, 1952,⁽⁴⁾ Mr. Clare E. Hoffman, of Michigan, submitted, as a question involving the privilege of the House, a resolution⁽⁵⁾ providing that Mr. Edwin Arthur Hall, of New York, be given an opportunity to appear before the bar of the House to explain or that a committee be appointed to investigate the authenticity of statements appearing in the press that Mr. Hall declared he "resents Congressmen who get soused and who in all probability are giving away atomic secrets to the enemy while under the influence of liquor." Pursuant to a motion authorizing the Speaker to refer this resolution to "a committee," the Speaker⁽⁶⁾ ordered it referred to the Committee on Rules.

Charges Concerning a Fellow Member

§ 9.3 A resolution alleging that a Member without authority addressed questionnaires to school teachers requesting their opinion on communism does not present a question of the privilege of the House.

On June 18, 1936,⁽⁷⁾ Mr. Kent E. Keller, of Illinois, offered as a

4. 98 CONG. REC. 4787-97, 82d Cong. 2d Sess.

5. H. Res. 631.

6. Sam Rayburn (Tex.).

7. 80 CONG. REC. 9947, 74th Cong. 2d Sess.

matter involving the privilege of the House a resolution concerning the alleged unauthorized action of Mr. Thomas L. Blanton, of Texas, whereby he addressed questionnaires to school teachers in the District of Columbia requesting their opinions on communism. A point of order was then made by Mr. Claude A. Fuller, of Arkansas, that the offered resolution did not involve a question of the privilege of the House. In his ruling sustaining the point of order, the Speaker⁽⁸⁾ said:

. . . The Chair is somewhat familiar with the precedents involved in matters of this sort. The question of privilege under rule IX under which this resolution is offered provides that questions of privilege shall be—

First, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings.

The matter set up in the resolution constitutes an allegation of certain conduct on the part of an individual Member of the House, who, it seems, wrote certain letters to school teachers or other persons in the District of Columbia. Whether or not the subject matter of the letter was proper or not, whether it was a matter of propriety or not, whether it was a matter of good judgment or not, is not one that involves under this rule the question of the privileges of the House and its proceedings, in the opinion of the Chair. The Chair, therefore, sustains the point of order.

8. William B. Bankhead (Ala.).

§ 10. Charges Involving House Officers or Employees

Criticism of Speaker

§ 10.1 A newspaper column alleging that the Speaker took care to insure that only Members amenable to a certain program were appointed to the House Ways and Means Committee was held not to give rise to a question of the privilege of the House.

On May 2, 1956,⁽⁹⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of the privilege of the House, presented a resolution⁽¹⁰⁾ requesting the appointment of a committee to investigate and make recommendations concerning a newspaper column which charged that "Speaker Sam Rayburn, of Texas, had carefully scrutinized the House Ways and Means Committee to make sure nobody was put on the committee who might vote against the 27½ percent oil depletion allowance." The Speaker pro tempore,⁽¹¹⁾ in ruling the claim of privilege invalid, said:

The Chair rules that the gentleman does not present a question of the privilege of the House.

9. 102 CONG. REC. 3838, 3839, 84th Cong. 2d Sess.

10. H. Res. 417.

11. John W. McCormack (Mass.).

It is perfectly all right for the Speaker or any Member to advocate a 27½ percent depletion. The resolution does not present a question which involves the privilege of the House.

Criticism of Doorkeeper

§ 10.2 A resolution proposing to deny a newspaper report that the Doorkeeper of the House acted rudely in accomplishing the removal of a visitor from the gallery was held not to raise a question of the privilege of the House.

On July 9, 1935,⁽¹²⁾ Mr. Thomas L. Blanton, of Texas, offered as a matter raising a question of the privilege of the House a resolution proposing the denial of a newspaper report which charged that the Doorkeeper of the House rudely forced a mother who was breast-feeding her child to leave the gallery of the House. Mr. Earl C. Michener, of Michigan, interrupted the reading of the resolution to make the point of order that the resolution did not give rise to a question of the privilege of the House. In his ruling sustaining the point of order, the Speaker⁽¹³⁾ stated: "The Chair suggests that the gentleman from Texas ask unanimous consent

that the resolution be read. The Chair does not think the resolution is privileged."

By unanimous consent, the reading of the resolution continued. Mr. Blanton then asked unanimous consent for consideration of the resolution, but objection was heard.⁽¹⁴⁾

Improper or Unauthorized Actions by Committee Employee

§ 10.3 A resolution alleging that a committee employee appeared in a court as special counsel for a committee of the House without the authorization of the House was presented as a question of the privilege of the House.

On July 1, 1952,⁽¹⁵⁾ Mr. Clare E. Hoffman, of Michigan, presented as a matter involving a question of the privilege of the House a resolution alleging that a committee employee appeared in the United States District Court for the Southern District of California as special counsel for a subcommittee of the Committee on Executive Expenditures without the authorization of the House. Debate on the resolution ensued, at the con-

12. 79 CONG. REC. 10905, 74th Cong. 1st Sess.

13. Joseph W. Byrns (Tenn.).

14. 79 CONG. REC. 10906, 74th Cong. 1st Sess.

15. 98 CONG. REC. 8768, 8769, 82d Cong. 2d Sess.

clusion of which a motion to refer the resolution to the Committee on the Judiciary was agreed to.

§ 11. Correcting the Record; Expungement of Words Uttered in Debate

A resolution asking the Senate to expunge from the *Congressional Record* language used in debate in the Senate which is offensive or otherwise improper may give rise to a question of the privilege of the House since the remedy of demanding that words be taken down is not available.⁽¹⁶⁾ However, neither a question of personal privilege nor a question of the privilege of the House arises during a debate in which offensive language is used, the remedy being a demand that the objectionable words be taken down when spoken. Thus, on one occasion,⁽¹⁷⁾ a Member, having risen to a question of personal privilege and of the privilege of the House, submitted a resolution to strike from the *Congressional Record* remarks made by a Member in the course of floor debate reflecting on the integrity of both the House

and a majority of the Members. Citing Rule XIV clause 5,⁽¹⁸⁾ which provides for the taking down of objectionable words, the Speaker⁽¹⁹⁾ ruled the Member out of order in raising a question of privilege under the circumstances.

Senate Debate Reflecting on House Integrity

§ 11.1 A resolution to expunge from the Congressional Record Senate debate reflecting on the integrity of the House presents a question of the privilege of the House.

On July 12, 1956,⁽¹⁾ Mr. Clare E. Hoffman, of Michigan, presented as a matter giving rise to a question of the privilege of the House a resolution seeking the expurgation from the Record of Senate debate attributing improper motives and influence to House action on an education bill.

The resolution [H. Res. 588] provided:

Resolved, whereas in the Congressional Record of July 9, 1956, certain articles appear which reflect upon the integrity of the House as a whole in its

16. §§ 11.1 et seq., *infra*.

17. 96 CONG. REC. 1514, 81st Cong. 2d Sess., Feb. 6, 1950. For further illustrations see Ch. 29, *infra*.

18. *House Rules and Manual* §761 (1973).

19. Sam Rayburn (Tex.).

1. 102 CONG. REC. 12522, 12523, 84th Cong. 2d Sess.

representative capacity, and upon individual Members of the House; and

Whereas such statements tend to disgrace, degrade, and render ineffective the actions of the Members of the House; and

Whereas the statements so made and carried in the Record adversely affect the rights of the House collectively, its safety, dignity, and the integrity of its proceedings: Now, therefore, be it

Resolved, That the House hereby by the adoption of this resolution most respectfully requests that the other body expunge from its records the rollcall votes and remarks appearing on pages 11016–11017 and the remarks appearing on page A5384 of the daily Congressional Record of July 9, 1956, under the caption “Ignoring the children”; and be it further

Resolved, That a copy of this resolution be transmitted to the Presiding Officer of the other body.

By vote of the House the resolution was referred to the Committee on Rules.

House Debate Reflecting on the Senate

§ 11.2 A resolution to expunge from the Congressional Record House debate reflecting on the Senate presents a question of the privilege of the House.

On May 24, 1950,⁽²⁾ Mr. Clare E. Hoffman, of Michigan, rose to a

2. 96 CONG. REC. 7635–37, 81st Cong. 2d Sess.

question of the privilege of the House:

THE SPEAKER PRO TEMPORE:⁽³⁾ The gentleman will state the question of privilege.

MR. HOFFMAN of Michigan: Mr. Speaker, in the daily Congressional Record of Monday, May 22, 1950, on page A4071 under date of Thursday, May 18, 1950, under the caption “We will meet the test,” there appears an extension of remarks of the Honorable Andrew J. Biemiller, of Wisconsin, which is a violation of the rules of the House in that in those remarks and in the editorial accompanying those remarks a Member of the other body is mentioned in such manner as to reflect upon him in his representative capacity. Such remarks and editorial as inserted in the Congressional Record are made a part of this question of privilege, are a violation of the rules of the House which prohibit any reference in the Congressional Record by a Member of this body to a Member of the other body.

The resolution which I offer is that such remarks be stricken from the Appendix.

THE SPEAKER PRO TEMPORE: The Clerk will report the resolution.

The Clerk read as follows:

Whereas the remarks of the gentleman from Wisconsin, Mr. Biemiller, which appear on page A4071 of the daily Congressional Record of Monday, May 22, 1950, and which are captioned, “We will meet the test,” are a violation of the rules of the House: Therefore be it

Resolved by the House, That said remarks as so indicated be, and the

3. John W. McCormack (Mass.).

same hereby are, stricken from the Record.

Debate on the resolution ensued. Subsequently, on the House's agreement to a unanimous-consent request by Mr. Biemiller that his remarks be deleted from the permanent Record, the resolution was withdrawn.

House Debate Reflecting on Members

§ 11.3 On one occasion the House agreed to a resolution which had been presented as a question of privilege of the House, and which expunged from the Congressional Record House debate which had impugned the integrity of a Member.

On Sept. 5, 1940,⁽⁴⁾ Mr. Clare E. Hoffman, of Michigan, rose to a question of the privilege of the House and offered a resolution⁽⁵⁾ as follows:

Whereas the gentleman from the Second District of Kentucky [Mr. (Beverly M.) Vincent], referring to the gentleman from the Twentieth District of Ohio [Mr. (Martin L.) Sweeney], stated on the floor of the House on September 4, 1940, as appears in the [daily] Record on page 17450, "I said I did not want to sit by a traitor to my country;" and

4. 86 CONG. REC. 11552, 76th Cong. 3d Sess.

5. H. Res. 591.

Whereas such words were a violation of the rules of the House and, as reprinted in the Record, charge the Member from Ohio with a lack of patriotism, and with disloyalty to his country, reflect upon him in his representative capacity and upon the dignity of the House: Therefore, be it

Resolved, That the words, "I said I did not want to sit by a traitor to my country," be expunged from the Record.

Debate on the resolution ensued, at the conclusion of which the resolution was agreed to.

Parliamentarian's Note: No point of order was raised against the presentation of this resolution as a question of privilege of the House. The proper remedy in such a case is to have the offending words taken down. Detailed coverage of this procedure is found in chapter 29, *infra*.

Offensive or Unauthorized Material Inserted in the Record

§ 11.4 A resolution to expunge from the Congressional Record several articles and documents criticizing a House committee, inserted in the Record by a Member, was entertained as a question of the privilege of the House.

On Mar. 10, 1948,⁽⁶⁾ Mr. John E. Rankin, of Mississippi, pre-

6. 94 CONG. REC. 2476-81, 80th Cong. 2d Sess. For additional examples see

sented as a matter involving the privilege of the House a resolution requesting that several articles and documents alleging that “[the Committee on Un-American Activities] continue[s] the practice of Hitler and Himmler, which would lead America . . . down the road toward fascism” which had been inserted in the *Congressional Record* by Mr. Adolph J. Sabath, of Illinois, be stricken therefrom. Following some debate the resolution was agreed to. The Member’s entire speech, including the articles and documents, was stricken from the Record.

§ 11.5 A resolution to expunge from the Congressional Record a speech inserted therein alleged to reflect on the integrity of the House and its Members is entertained as a question of privilege.

On May 13, 1946,⁽⁷⁾ Mr. Clare E. Hoffman, of Michigan, offered as a matter involving a question of the privilege of the House a resolution⁽⁸⁾ concerning the text of a speech delivered by August Scholle, a Michigan labor union

93 CONG. REC. 2461–63, 80th Cong. 1st Sess., Mar. 24, 1947.

7. 92 CONG. REC. 4922–24, 79th Cong. 2d Sess.

8. H. Res. 616.

official, assailing the integrity of both the House and its Members. The resolution proposed that the speech, which had been inserted in the *Congressional Record* by Mr. Adolph J. Sabath, of Illinois, be stricken therefrom. The resolution was adopted on a roll call vote—yeas 247, nays 77, not voting 106.

§ 11.6 A resolution to expunge from the Congressional Record unparliamentary language inserted under leave to extend is entertained as a question of the privilege of the House.

On Apr. 20, 1936,⁽⁹⁾ Mr. Thomas L. Blanton, of Texas, presented as a question of the privilege of the House a resolution⁽¹⁰⁾ demanding the expurgation from the Record of certain unparliamentary remarks concerning the personal life of a Member. The material had been inserted on a preceding day under leave to extend that had been granted to Mr. Marion A. Zioncheck, of Washington. The resolution was agreed to on a roll call vote.

§ 11.7 A resolution to expunge certain remarks inserted

9. 80 CONG. REC. 5704–07, 74th Cong. 2d Sess.

10. H. Res. 490.

through an abuse of the grant of leave to print in the Congressional Record gives rise to a question of the privilege of the House.

On July 13, 1942,⁽¹¹⁾ Mr. John E. Rankin, of Mississippi, presented as a matter of the privilege of the House the following resolution:⁽¹²⁾

Whereas in the daily Congressional Record of July 9, 1942, on page A2877, A2878, and A2879 of the Appendix thereof, the remarks purporting to be made by the gentleman from New York, Mr. Sol Bloom, and containing a letter written by one Ralph Ingersoll attacking draft board No. 44 of New York for performing its official duties in refusing to exempt the said Ralph Ingersoll from the draft on the flimsy pretext set out in said letter; and

Whereas said letter was inserted under permission to insert an editorial and not a letter from the said Ralph Ingersoll; and

Whereas it is stated on page 6271 of the Congressional Record of July 9, 1942, that the printing of this insertion in the Congressional Record was estimated to cost the Government of the United States \$157.50; and

Whereas said letter so inserted in lieu of the editorial for which permission was given contains language and statements that are objectionable and unparliamentary; and

11. 88 CONG. REC. 6102, 77th Cong. 2d Sess. For a further example see 92 CONG. REC. 1274, 79th Cong. 2d Sess., Feb. 13, 1946.

12. H. Res. 518.

Whereas said statements were not made upon the floor of the House; and

Whereas said statements reflect upon Members of Congress, are false, improper, and out of order, and in violation of the privileges and rules of the House; and if they had been uttered upon the floor of the House they would have been subject to a point of order: Therefore be it

Resolved, That the said remarks be stricken from the Record and the Public Printer prohibited from issuing copies thereof from the columns of the Congressional Record.

Without debate, the resolution was adopted.

§ 11.8 A resolution to expunge from the Congressional Record certain remarks inserted without proper authorization is entertained as a matter of the privilege of the House.

On Aug. 27, 1940,⁽¹³⁾ Mr. Jacob Thorkelson, of Montana, offered as a question of the privilege of the House a resolution demanding that certain remarks inserted into the *Congressional Record* by Mr. Adolph J. Sabath, of Illinois, without first having obtained the permission of the House, be expunged from the Record and declared not to constitute a legitimate part of

13. 86 CONG. REC. 11046, 76th Cong. 3d Sess. For an additional example see 80 CONG. REC. 7019, 74th Cong. 2d Sess., May 11, 1936.

the official Record of the House. After some debate the resolution was adopted.

Inaccuracies in the Congressional Record

§ 11.9 A resolution to correct inaccuracies in the report of proceedings as printed in the Congressional Record is presented as a question of the privilege of the House.

On Apr. 26, 1940,⁽¹⁴⁾ Mr. Clare E. Hoffman, of Michigan, offered as a matter involving the question of the privilege of the House the following resolution:

Whereas the Congressional Record of April 25, 1940, is not, on pages 5046 to 5051, inclusive, a true and accurate record of the proceedings that took place on the floor of the House on yesterday, in that there is omitted therefrom a demand which was made on the floor of the House by the gentleman from the Twelfth Congressional District of Michigan that certain words uttered on the floor of the House by the gentleman from the Second District of Georgia be taken down, and, there is omitted therefrom, the ruling of the Speaker upon such demand, and there is omitted therefrom a motion which was made by the gentleman from the Twelfth District of Massachusetts, and there is omitted therefrom the vote taken on said motion, and there is omitted therefrom the result of said

vote and the subsequent direction of the Speaker to the gentleman from Georgia to continue: Now, therefore, be it

Resolved, That the Record of the House be corrected and that the proceedings above referred to be printed therein.

Following agreement by unanimous consent to the request of Mr. Edward E. Cox, of Georgia, that the stricken matter in question be restored to the Record, the resolution was withdrawn.

Restoration of Remarks Previously Deleted

§ 11.10 A resolution to restore to the Record remarks previously deleted by House adoption of a motion to expunge does not present a question of the privilege of the House; the proper method of reopening the matter being by motion to reconsider the vote whereby such action was taken.

On Feb. 13, 1941,⁽¹⁵⁾ Mr. Clare E. Hoffman, of Michigan, rose to a question of the privilege of the House and submitted a resolution requesting the restoration to the Record of certain remarks made by him and Mr. Samuel Dickstein, of New York, during the previous

14. 86 CONG. REC. 5111, 5112, 76th Cong. 3d Sess.

15. 87 CONG. REC. 979, 980, 77th Cong. 1st Sess.

day's proceedings. Such remarks had been deleted by the House pursuant to the adoption of a motion to expunge made by Mr. John E. Rankin, of Mississippi. Following debate, an inquiry was heard from Mr. Hoffman as to whether the Chair had ruled on the question of the privilege of the House. Responding to the inquiry, the Speaker⁽¹⁶⁾ stated:

The House would have to decide that, and, in the opinion of the Chair, the House did decide the matter when it expunged the remarks from the Record. The Chair thinks, under the circumstances, that the proper way to reopen the question would be by a motion to reconsider the vote whereby the motion of the gentleman from Mississippi [Mr. Rankin] was adopted. The Chair is of the opinion that inasmuch as the question raised by the gentleman from Michigan was decided by a vote of the House on a proper motion, that he does not now present a question of privilege of the House or of personal privilege.

§ 12. Enforcement of Committee Orders and Subpenas

Warrants Detaining Committee Witnesses

§ 12.1 A resolution authorizing the Speaker to issue a war-

16. Sam Rayburn (Tex.).

rant commanding the detention of a committee witness, based on allegations that attempts had been made by the Senate to deprive the committee of such witness' presence, gave rise to a question of the privilege of the House.

On Aug. 15, 1935,⁽¹⁷⁾ Mr. John J. O'Connor, of New York, rose to a question of the privilege of the House and offered a resolution⁽¹⁸⁾ authorizing the Speaker to issue a warrant commanding the bodily detention of a committee witness, it being alleged that attempts had been made by the Senate to deprive the committee of such witness' presence. The resolution stated:

Whereas the House did on July 8, 1935, adopt a resolution, House Resolution 288, authorizing the Committee on Rules to investigate any and all charges of attempts or attempts to intimidate or influence Members of the House of Representatives with regard to the bill S. 2796 or any other bills affecting public-utility holding companies during the Seventy-fourth Congress by any person, partnership, trust, association, or corporation;

Whereas under the authority conferred upon said Committee on Rules by said House Resolution 288, the said committee had caused to be issued a subpoena directed to H.C. Hopson to ap-

17. 79 CONG. REC. 13289, 13290, 74th Cong. 1st Sess.

18. H. Res. 340.

pear before said committee and to testify concerning the matters committed to the said Committee on Rules for investigation. . . .

Whereas agents of another body have attempted to serve the said H.C. Hopson at 11:30 a.m. on August 14 with a subpoena in order to compel the said H.C. Hopson to appear before another body forthwith to give testimony.

. . . Whereas any interference with the proper proceeding of the Committee on Rules in the investigation committed to them by House Resolution 288 is an invasion of the prerogatives and privileges of the House of Representatives. . . .

. . . Therefore, be it

Resolved, That the Speaker of the House of Representatives issue his warrant commanding the Sergeant at Arms of the House of Representatives, or his deputy, to take into custody the body of H.C. Hopson wherever found; that the said Sergeant at Arms, or his deputy, shall keep in custody the said H.C. Hopson until such time as the Committee on Rules shall discharge him.

Provided, however, That the said witness may be available for examination by the Senate Committee at such times as his attendance is not required by the House Committee.

A point of order was raised by Mr. John E. Rankin, of Mississippi, asserting that the resolution did not give rise to a question of the privilege of the House. Following some debate, the point of order was overruled by the Chair, the Speaker⁽¹⁹⁾ stating:

19. Joseph W. Byrns (Tenn.).

. . . As the Chair construes the resolution, it involves the dignity and authority of the House. The House has authority to protect its own agents and its own committees in the discharge of the duties vested in them. It seems to the Chair that this is distinctly a matter of privilege for the consideration of the House. . . .

The Chair repeats that the resolution is one which involves the dignity and authority of the House in protecting its committees, which in this instance happens to be the Committee on Rules, in the investigation which it has been authorized to make. The Chair overrules the point of order.

Orders Relating to Refusal of Witness to Be Sworn

§ 12.2 A committee report relating the refusal of a witness to be sworn to testify before a House subcommittee involves a question of the privilege of the House.

On Sept. 10, 1973,⁽²⁰⁾ Mr. Lucien N. Nedzi, of Michigan, rose to a question of the privilege of the House and offered a report⁽¹⁾ from the Committee on Armed Services informing the House of the refusal of George Gordon Liddy to be sworn or to testify before its duly authorized subcommittee. Following the presen-

20. 119 CONG. REC. 28951, 28952, 28959, 28960, 28962, 28963, 93d Cong. 1st Sess.

1. H. REPT. No. 93-453.

tation of the committee report, the House agreed to a privileged resolution⁽²⁾ offered by Mr. Nedzi directing the Speaker⁽³⁾ to certify to the appropriate United States attorney the refusal of the witness to be sworn to testify before a subcommittee of the Committee on Armed Services.

Parliamentarian's Note: Based upon the precedent in the 92d Congress, first session, July 13, 1971,⁽⁴⁾ Representative Nedzi was advised that a committee report on the contempt of a witness could be brought to the floor on the same day as filed and that the requirement for a three-day layover under Rule XI clause 27(d)(4) did not apply.

Enforcement of Subpena Duces Tecum

§ 12.3 A committee report relating the refusal of a witness to respond to a subpoena duces tecum issued by a House subcommittee gives rise to a question of the privilege of the House.

On July 13, 1971,⁽⁵⁾ Mr. Harley O. Staggers, of West Virginia, rose

to a question of the privilege of the House and submitted a report⁽⁶⁾ from the Committee on Interstate and Foreign Commerce informing the House of the refusal of Frank Stanton, president of CBS, to respond to a subpoena duces tecum issued by a subcommittee of the committee. Subsequent to the presentation of the committee report, a privileged resolution⁽⁷⁾ was offered by Mr. Staggers directing the Speaker⁽⁸⁾ to certify the report of the House committee on the contemptuous conduct of the witness to the appropriate United States attorney. Some debate on the resolution ensued, at the conclusion of which the previous question on the resolution was moved by Mr. Staggers. Thereupon, Mr. Hastings Keith, of Massachusetts, asserting his opposition to the resolution, offered a motion to recommit the resolution to the Committee on Interstate and Foreign Commerce. The motion to recommit was agreed to.

2. H. Res. 536.

3. Carl Albert (Okla.).

4. 117 CONG. REC. 24720-23.

5. 117 CONG. REC. 24720-23, 92d Cong. 1st Sess. For additional examples

see 112 CONG. REC. 27439-513, 27641, 89th Cong. 2d Sess., Oct. 18 and 19, 1966; 80 CONG. REC. 8219-21, 74th Cong. 2d Sess., May 28, 1936.

6. H. REPT. No. 92-349.

7. H. Res. 534.

8. Carl Albert (Okla.).

§ 13. Invasion of House Jurisdiction or Prerogatives

Senate Invasion of House Prerogatives

§ 13.1 Invasion of the House prerogative to originate revenue-raising legislation granted by article I, section 7 of the Constitution raises a question of the privilege of the House.

On May 20, 1965,⁽⁹⁾ Mr. Wilbur D. Mills, of Arkansas, offered as a matter involving the privilege of the House a resolution⁽¹⁰⁾ providing for the return to the Senate of a messaged bill. The bill authorized the President to raise the duty on fishery products and was deemed to infringe on the revenue-raising prerogatives of the

9. 111 CONG. REC. 11149, 11150, 89th Cong. 1st Sess. For further instances where invasion of the House's revenue-raising prerogative gave rise to a question of the privilege of the House, see 111 CONG. REC. 23632, 89th Cong. 1st Sess., Sept. 14, 1965; 108 CONG. REC. 23014, 87th Cong. 2d Sess., Oct. 10, 1962; 106 CONG. REC. 15818, 15819, 86th Cong. 2d Sess., July 2, 1960; 99 CONG. REC. 1897, 1898, 83d Cong. 1st Sess., Mar. 12, 1953; 92 CONG. REC. 5001-12, 79th Cong. 2d Sess., May 14, 1946.

10. H. Res. 397.

House. The language of the Senate bill was as follows:

That when the Secretary of the Interior determines that the fishing vessels of a country are being used in the conduct of fishing operations in a manner or in such circumstances which diminish the effectiveness of domestic fishery conservation programs, the President . . . may increase the duty on any fishery product in any form from such country for such time as he deems necessary to a rate not more than 50 percent above the rate existing on July 1, 1934.

The House resolution was agreed to.

Executive Invasion of House Prerogatives

§ 13.2 Alleged infringement by the executive branch, through its treatymaking power, on the constitutional right of Congress under article IV section 3 to exercise control over the territory and other property belonging to the United States, presents a question of the privilege of the House.

On Feb. 17, 1944,⁽¹¹⁾ Mr. Carl Hinshaw, of California, presented as a question involving the privilege of the House a resolution⁽¹²⁾

11. 90 CONG. REC. 1836, 78th Cong. 2d Sess.

12. H. Res. 446.

instructing the Committee on the Judiciary to investigate the action of the President in sending to the Senate for ratification a treaty relating to the utilization by the United States and Mexico of certain southwestern rivers. The resolution declared that the Constitution (art. IV, §3) vests regulatory power over U.S. territory in the Congress, and that the action of the President constituted an invasion of the House's prerogatives relating to the control of United States' territory and property. Without debate, a motion to refer the resolution to the Committee on the Judiciary was agreed to.⁽¹³⁾

Judicial Invasion of House Prerogatives

§ 13.3 A resolution declaring that the constitutional prerogatives of the House had been invaded by the issuance of a court order restraining the publication of a committee report presents a question of the privilege of the House.

On Dec. 14, 1970,⁽¹⁴⁾ Mr. Richard H. Ichord, of Missouri, offered as a matter involving the privilege

13. 90 CONG. REC. 1841, 78th Cong. 2d Sess.

14. 116 CONG. REC. 41355, 91st Cong. 2d Sess.

of the House a resolution (H. Res. 1306) ordering the Public Printer to publish a report of the Committee on Internal Security and enjoining all persons from interfering therewith, it being alleged, inter alia, that the prior issuance of a temporary order by a United States District Court restraining the publication of the committee report constituted an invasion of the House's prerogatives granted by the U.S. Constitution (art. I, §6, clause 3). After lengthy debate the resolution was agreed to on a roll call vote.⁽¹⁵⁾

§ 14. Service of Process on Members

The service of process on the House or those associated with it, or the exercise of authority over it by another coordinate and coequal branch of government, including any mandate of process which commands a Member's presence before another branch of government during sessions of the House, has historically been perceived by the House as a matter intimately related to its dignity and the integrity of its proceedings, and as constituting an occasion for the raising of the question of the privilege of the House.

15. Id. at P. 41374.

The rules and precedents of the House require that no Member, official, staff member, or employee of the House may, either voluntarily or in obedience to a subpoena, testify regarding official functions, documents, or activities of the House without the consent of the House being first obtained. Likewise, information on papers obtained by Members, officers, and staff employees of the House pursuant to their official duties may not be revealed in response to a subpoena without the consent of the House. Accordingly, when a House Member, officer, or employee is subpoenaed on a matter relating to House business, the privilege of the House arises; he or his supervisor therefore advises the Speaker, who lays the facts before the House for its consideration.⁽¹⁶⁾

Service of Federal Court Summons

§ 14.1 The receipt of a summons naming a Member (who was also Majority Leader) of

16. See 113 CONG. REC. 29374–76, 90th Cong. 1st Sess., Oct. 25, 1967. For instances where the receipt of judicial process by a House officer or Member has resulted in the presentation of a question of the privilege of the House, see §§ 15–17, *infra*.

the House in his official capacity as a defendant in a civil action brought in a federal court raises a question of the privilege of the House and the matter is laid before the House for its consideration.

On July 8, 1965,⁽¹⁷⁾ the Chair recognized Mr. Carl Albert, of Oklahoma, who rose to a question of the privilege of the House:

MR. ALBERT: Mr. Speaker, I rise to a question of the privilege of the House. THE SPEAKER:⁽¹⁸⁾ The gentleman will state the question of privilege.

MR. ALBERT: Mr. Speaker, in my official capacity as a Representative and as majority leader of this House, I have been served with a summons issued by the U.S. District Court for the District of Columbia to appear in connection with the case of the All-American Protectorate, Inc. against Lyndon B. Johnson, and others.

Under the precedents of the House, I am unable to comply with this summons without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

I send to the desk the summons.

THE SPEAKER: The Clerk will read the subpoena.

Thereupon the summons was read to the House.

17. 111 CONG. REC. 15978, 15979, 89th Cong. 1st Sess.

18. John W. McCormack (Mass.).

The Speaker and the Minority Leader, Gerald R. Ford, of Michigan, had been named in the summons, and both respectively submitted the matter to the House. The following proceedings then took place:

THE SPEAKER: The Chair has addressed a letter to the Attorney General of the United States. The Clerk will read the letter.

The Clerk read as follows:

July 8, 1965.

The Honorable the Attorney General,
Department of Justice.

DEAR SIR: I did on July 6, 1965, accept service of a summons in the case of *The All-American Protectorate, Incorporated v. Lyndon B. Johnson et al.*, civil action file No. 1583-65, pending in the U.S. District Court for the District of Columbia. The complaint filed in this action names me, individually and as Speaker of the House of Representatives, as a defendant in this proceeding.

The majority leader of the House of Representatives, the Honorable Carl Albert, and the minority leader, the Honorable Gerald R. Ford, both of whom are named as defendants in this same proceeding, accepted service of summons on July 7, 1965.

I am including herewith the summons served upon me, and those served upon Representatives Albert and Ford, individually and in their official capacities as majority and minority leaders, respectively, in order that you may proceed in accordance with the law.

Sincerely,

JOHN W. MCCORMACK,
*Speaker of the House
of Representatives.*

Service of Federal Court Subpena

§ 14.2 Where a Member receives a subpoena to appear as a witness in a federal court during a session of the House, a question of the privilege of the House arises and the matter is laid before the House for its consideration.

On Nov. 17, 1969,⁽¹⁹⁾ Mr. Henry B. Gonzalez, of Texas, rose to a question of the privilege of the House:

MR. GONZALEZ: . . . Mr. Speaker, I have been subpoenaed to appear before the U.S. District Court for the Western District of Texas to testify on Wednesday, November 19, 1969, in San Antonio, Tex., in the criminal case of the United States of America against Albert Fuentes, Jr., and Edward J. Montez.

Under the precedents of the House, I am unable to comply with this subpoena without the consent of the House, the privileges of the House being involved. I, therefore, submit the matter for the consideration of this body.

19. 115 CONG. REC. 34301, 34302, 91st Cong. 1st Sess. For additional examples see 107 CONG. REC. 5844, 87th Cong. 1st Sess., Apr. 13, 1961; 107 CONG. REC. 2481, 87th Cong. 1st Sess., Feb. 21, 1961; 107 CONG. REC. 2480, 2481, 87th Cong. 1st Sess., Feb. 21, 1961; 107 CONG. REC. 2000, 87th Cong. 1st Sess., Feb. 9, 1961; and 106 CONG. REC. 6131, 86th Cong. 2d Sess., Mar. 21, 1960.

Mr. Speaker, I send the subpoena to the desk.

THE SPEAKER:⁽²⁰⁾ The Clerk will read the subpoena.

There followed a reading of the subpoena to the House.

Parliamentarian's Note: Mr. Gonzalez had no information relevant to the case and the House did not authorize his appearance.

Service of Modified Federal Court Subpena

§ 14.3 Where a federal court subpoena directed to a Member was modified after service by court order, the Member informed the House of the modification when he presented the subpoena to the House.

On Feb. 9, 1961,⁽¹⁾ Mr. Francis E. Walter, of Pennsylvania, rose to a question of the privilege of the House and addressed the following remarks to the Chair:

MR. WALTER: Mr. Speaker, I have been subpoenaed to appear before the U.S. District Court for the District of Columbia, to testify on February 20, 1961, in the case of the United States of America against Martin Popper.

The subpoena, as originally served upon me, required that I appear and testify and bring with me certain docu-

ments. A motion to quash that portion of the subpoena duces tecum requiring the presentation of documents was granted by Mr. Justice Edward M. Curran on February 3, 1961.

Under the precedents of the House, I am unable to appear and testify without the consent of the House, the privileges of the House being involved. I therefore submit the matter to the House for its consideration.

The subpoena was sent to the desk and the Speaker⁽²⁾ instructed the Clerk to read it to the House. At the conclusion of the Clerk's reading, the House agreed to a privileged resolution⁽³⁾ offered by Mr. John W. McCormack, of Massachusetts, authorizing the Member to appear in response to the subpoena as modified.

Service of State Court Subpena

§ 14.4 Where a Member receives a subpoena from a state court, he lays the matter before the House for action.

On Oct. 18, 1971,⁽⁴⁾ Mr. Don H. Clausen, of California, rising to a

20. John W. McCormack (Mass.).

1. 107 CONG. REC. 2000, 87th Cong. 1st Sess.

2. 2. Sam Rayburn (Tex.).

3. H. Res. 155.

4. 117 CONG. REC. 36494, 92d Cong. 1st Sess. For further illustrations, including some instances where the House adopted resolutions, see 116 CONG. REC. 11863, 91st Cong. 2d Sess., Apr. 15, 1970; 113 CONG. REC. 35129, 90th Cong. 1st Sess., Dec. 6, 1967; 113 CONG. REC. 28406, 90th

question of the privilege of the House, informed the House that he had been served with a subpoena from the Superior Court of the State of California. Upon the delivery of the subpoena to the desk, the Speaker⁽⁵⁾ instructed the Clerk to read the subpoena to the House. The House took no further action in the matter.

§ 14.5 A Member having been subpoenaed to testify at a preliminary hearing in an action pending in the state court rose to a question of the privilege of the House.

On Sept. 23, 1971,⁽⁶⁾ Mr. Joshua Eilberg, of Pennsylvania, rose to a question of the privilege of the House and addressed the following remarks to the Chair:

MR. EILBERG: Mr. Speaker, yesterday afternoon, after the House had adjourned, I was subpoenaed to appear before the Court of Common Pleas of Philadelphia, Commonwealth of Pennsylvania, to testify this morning, September 23, 1971, at 9 a.m., at a preliminary hearing in an action designated as Commonwealth against Patrick McLaughlin.

Under the precedents of the House, I was unable to comply with this sub-

pena, without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

The subpoena was sent to the desk, and the Speaker⁽⁷⁾ instructed the Clerk to read it to the House. The House did not adopt a resolution permitting him to attend.

Service of Subpena Issued by District of Columbia Court

§ 14.6 The receipt by a Member of a subpoena to appear before a court of the District of Columbia gave rise to a question of the privilege of the House.

On Jan. 19, 1972,⁽⁸⁾ the Chair recognized Mr. George P. Miller, of California, on a question of the privilege of the House:

MR. MILLER of California: Mr. Speaker, I rise to a question of the privileges of the House.

Mr. Speaker, I have been subpoenaed to appear before the criminal assignment branch of the District of Columbia Court of General Sessions on January 28, 1972, in the case of the United States of America against Ernest Long.

7. Carl Albert (Okla.).

8. 118 CONG. REC. 318, 92d Cong. 2d Sess. Additional illustrations may be found at 115 CONG. REC. 26008, 91st Cong. 1st Sess., Sept. 18, 1969, and 110 CONG. REC. 1510, 88th Cong. 2d Sess., Jan. 31, 1964.

Cong. 1st Sess., Oct. 10, 1967; and 111 CONG. REC. 17002, 89th Cong. 1st Sess., July 15, 1965.

5. Carl Albert (Okla.).

6. 117 CONG. REC. 33114, 92d Cong. 1st Sess.

Under the precedents of the House, I am unable to comply with the subpoena without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

I send the subpoena to the desk.

THE SPEAKER:⁽⁹⁾ The Clerk will report the subpoena.

After the reading of the subpoena, a privileged resolution⁽¹⁰⁾ was offered by Mr. Hale Boggs, of Louisiana, authorizing the Member to appear in response to the subpoena. The resolution was agreed to.

Service of Municipal Court Subpena

§ 14.7 A Member having received a summons to appear before a municipal court rose to a question of the privilege of the House.

On June 9, 1964,⁽¹¹⁾ Mr. John E. Moss, Jr., of California, rose to a question of the privilege of the House and informed the House that he had been summoned to appear and testify before the Juvenile and Domestic Relations Court of the city of Alexandria,

9. Carl Albert (Okla.).

10. H. Res. 767.

11. 110 CONG. REC. 13017, 13018, 88th Cong. 2d Sess. For an additional example see 99 CONG. REC. 3013, 3014, 83d Cong. 1st Sess., Apr. 13, 1953.

Virginia. The summons was sent to the desk, whereupon the Speaker⁽¹²⁾ instructed the Clerk to read it to the House. At the conclusion of the Clerk's reading, a resolution⁽¹³⁾ was offered by Mr. Carl Albert, of Oklahoma, authorizing the Member to appear in response to the summons. The resolution was agreed to.

Service of Executive Agency, Subpena

§ 14.8 The receipt by a Member of a subpoena to appear and testify before a federal executive agency gives rise to a question of the privilege of the House.

On Mar. 18, 1963,⁽¹⁴⁾ after the Chair's recognition of Mr. Alvin E. O'Konski, of Wisconsin, on a question of privilege, the following proceedings occurred:

MR. O'KONSKI: Mr. Speaker, I rise to a question of privilege of the House.

· · ·

Mr. Speaker, I have been subpoenaed to appear before the Federal Communications Commission or Charles J. Frederick, hearing examiner, at the new Post Office Building, Pennsylvania Avenue and 13th Street NW., Washington, D.C., to testify on March 20,

12. John W. McCormack (Mass.).

13. H. Res. 743.

14. 109 CONG. REC. 4392, 88th Cong. 1st Sess.

1963, at 10 a.m., in the matter of Central Wisconsin Television, Inc., Federal Communications Commission docket No. 14933-14934. Under the precedents of the House, I am unable to comply with this subpoena without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

THE SPEAKER:⁽¹⁵⁾ The Clerk will report the subpoena.

The House then heard the report of the Clerk.

The House took no further action in the matter.

Service of Court Orders To Appear and Show Cause

§ 14.9 A Member, having been served by a state court with an order to appear and show cause, rose to a question of the privilege of the House.

On May 19, 1970,⁽¹⁶⁾ Mr. Sam Steiger, of Arizona, rose to a question of the privilege of the House and informed the House that he had been served with an order to appear and to show cause issued by the Superior Court of the State of Arizona. The order was sent to the desk, whereupon the Speaker⁽¹⁷⁾ instructed the Clerk to read it to the House.

15. John W. McCormack (Mass.).

16. 116 CONG. REC. 16165, 91st Cong. 2d Sess.

17. John W. McCormack (Mass.).

Parliamentarian's Note: The Member had been served with a subpoena duces tecum by a state court to appear as a witness for the plaintiff and to bring with him certain documents in his possession. He appeared in response to the subpoena, but refused to bring the requested documents and refused to answer oral interrogatories propounded by counsel for plaintiff. He was then served with an order to show cause why he should not be compelled to answer the interrogatories which had been propounded to him. Because the court order requested him to appear while Congress was in session, he raised the question of the privilege of the House. He did not request the House to authorize his appearance, and no further action was taken in the matter.

Service of Order To Appear and Answer Interrogatories

§ 14.10 A Member, having been served by a state court with an order to appear and answer oral interrogatories, rose to a question of the privileges of the House.

On July 22, 1970,⁽¹⁸⁾ Mr. Sam Steiger, of Arizona, rising to a question of the privilege of the

18. 116 CONG. REC. 25333, 25334, 91st Cong. 2d Sess.

House, informed the House that he had been served with an order to appear and answer oral interrogatories issued by the Superior Court of the State of Arizona. The order was sent to the desk whereupon the Speaker⁽¹⁹⁾ instructed the Clerk to read it to the House. At the conclusion of the reading, the House agreed to a privileged resolution⁽²⁰⁾ offered by Mr. Carl Albert, of Oklahoma, authorizing the Member to appear in response to the order at any time when the House had adjourned to a day certain for a period in excess of three days.

§ 15. Service of Grand Jury Subpena

Federal Grand Jury Subpena

§ 15.1 The receipt by a Member of a subpoena to appear before a federal grand jury gives rise to a question of the privilege of the House.

On July 15, 1963,⁽¹⁾ the Chair recognized Mr. Edmond

Edmondson, of Oklahoma, on a question of the privilege of the House:

MR. EDMONDSON: Mr. Speaker, I rise to a question of the privilege of the House.

THE SPEAKER:⁽²⁾ The gentleman will state it.

MR. EDMONDSON: Mr. Speaker, I have received a summons to appear before the grand jury of the U.S. District Court for the District of Columbia on Tuesday, July 16, 1963, at 9 o'clock a.m., to testify in the case of the United States against Jessie Lee Bell.

Under the precedents of the House, I am unable to comply with this summons without the consent of the House, the privileges of the House being involved. I, therefore, submit the matter for the consideration of this body.

Mr. Speaker, I send to the desk the summons.

THE SPEAKER: The Clerk will report the summons.

At the conclusion of the Clerk's report, a resolution⁽³⁾ offered by Mr. Carl Albert, of Oklahoma, authorizing the Member to appear in response to the summons, was agreed to.

State Grand Jury Subpoena

§ 15.2 A subpoena to a Member requiring his appearance before a state grand jury gives rise to a question of the privilege of the House.

2. John W. McCormack (Mass.).

3. H. Res. 436.

19. John W. McCormack (Mass.).

20. H. Res. 1155.

1. 109 CONG. REC. 12488, 88th Cong. 1st Sess. For additional examples see 95 CONG. REC. 5544, 5545, 81st Cong. 1st Sess., May 3, 1949; and 88 CONG. REC. 1267, 77th Cong. 2d Sess., Feb. 16, 1942.

On May 9, 1962,⁽⁴⁾ Mr. Frank W. Boykin, of Alabama, rising to a question of the privilege of the House, informed the House that he had been subpoenaed to appear before the grand jury of the Circuit Court for Montgomery County, Maryland. The subpoena was sent to the desk whereupon, the Speaker⁽⁵⁾ instructed the Clerk to read it to the House. At the conclusion of the Clerk's reading, the House agreed to a privileged resolution⁽⁶⁾ offered by Mr. Carl Albert, of Oklahoma, authorizing the Member to appear in response to the subpoena.

§ 16. Service of Process on House, Its Officers, or Employees

Service of Process Naming the House

§ 16.1 The receipt of a summons and complaint naming the House of Representatives

4. 108 CONG. REC. 8006, 87th Cong. 2d Sess. For further illustrations see 108 CONG. REC. 7945, 87th Cong. 2d Sess., May 8, 1962; 108 CONG. REC. 7816, 7817, 87th Cong. 2d Sess., May 7, 1962; and 105 CONG. REC. 1623, 86th Cong. 1st Sess., Feb. 2, 1959.
5. John W. McCormack (Mass.).
6. H. Res. 630.

as the defendant in a civil action pending in a federal court raises a question of the privilege of the House.

On Dec. 13, 1973,⁽⁷⁾ the Speaker⁽⁸⁾ laid before the House as a matter giving rise to a question of the privilege of the House the following summons:

SUMMONS IN A CIVIL ACTION

[In the U.S. District Court for the Northern District of California, civil action file No. C 73 2092GBH]

Earle Ray Esgate, Plaintiff, v. Donald E. Johnson, Board of Veterans Appeals, the United States House of Representatives, the United States Senate, the President of the United States, as Commander in Chief of the Armed Forces of the United States, and as Co-Defendant United States Army and United States Army Medical Corps.

To the above named Defendant: You are hereby summoned and required to serve upon The plaintiff; acting as his own attorney and whose address is below: plaintiff's attorney, whose address Earle Ray Esgate, 1099 Topaz Ave. Apt. 6, San Jose, California, 95117, Phone 296-8182 an answer to the complaint which is herewith served upon you within 60 days after service of this summons upon you, exclusive of

7. 119 CONG. REC. 41258, 93d Cong. 1st Sess. For additional examples see 118 CONG. REC. 29136, 92d Cong. 2d Sess., Aug. 18, 1972; 118 CONG. REC. 17398, 92d Cong. 2d Sess., May 16, 1972; and 117 CONG. REC. 1503, 92d Cong. 1st Sess., Feb. 3, 1971.
8. Carl Albert (Okla.).

the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

Date: December 5, 1973.

F. R. PETTIGREW,
Clerk of Court.
C. COWNE,
Deputy Clerk.

[Seal of Court.]

Along with the summons, the Speaker presented two letters written by the Clerk, W. Pat Jennings, relating to the summons:

WASHINGTON, D. C.,
December 12, 1973.

Hon. CARL ALBERT,
The Speaker,
House of Representatives.

DEAR MR. SPEAKER: On December 11, 1973 I have been served a summons and copy of the complaint in a Civil Action through the United States Marshal by certified mail number 197884 that was issued by the U.S. District Court for the Northern District of California.

The Summons requires the Congress of the United States to answer the complaint within sixty days after service.

The Summons and complaint in question are attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

With kind regards, I am,

W. PAT JENNINGS,
Clerk, House of Representatives.

WASHINGTON, D.C.,
December 12, 1973.

Hon. ROBERT H. BORK,
Acting Attorney General of the United States, U.S. Department of Justice, Washington, D.C.

DEAR MR. BORK: I am sending you a certified copy of a summons and

complaint in Civil Action No. C 73 2092GBH filed against the United States House of Representatives and others in the United States District Court for the Northern District of California, and served upon me through the U.S. Marshal by certified mail No. 197884 on December 11, 1973.

In accordance with 2 U.S.C. 118 I have sent a certified copy of the Summons and Complaint in this action to the U.S. Attorney for the Northern District of California requesting that he take appropriate action under the supervision and direction of the Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

With kind regards, I am,
Sincerely,

W. PAT JENNINGS,
Clerk, House of Representatives.

Under the provisions of 2 USC §118, the United States Attorney is obliged to appear and defend, upon request of an officer of either House of Congress, actions brought against such officer on account of anything done in discharge of official duties. Thereafter, the defense of the case is under the supervision and direction of the Attorney General.

Service of Process on House Officers

§ 16.2 The receipt of a summons and complaint naming the Speaker in his official capacity as a defendant in a civil action brought in a federal court raises a question

of the privilege of the House, and the matter is laid before the House for its consideration.

On Feb. 5, 1973,⁽⁹⁾ the Speaker⁽¹⁰⁾ laid before the House as a matter giving rise to a question of the privilege of the House the following summons:

SUMMONS

The Regent Cecil J. Williams Plaintiff v. Carl Albert, M.C. Speaker, et al. Defendants.

To the above named Defendant: Carl Albert, M.C., Speaker.

You are hereby summoned and required to serve upon the Regent Cecil J. Williams, P.P., whose address is 1417 N Street, N.W., Washington, D. C. 20005, an answer to the complaint which is herewith served upon you, within 60 days after service of this summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

JAMES F. DAVEY,
Clerk of Court.
RUBIN CUELLAR,
Deputy Clerk.

9. 119 CONG. REC. 3207, 93d Cong. 1st Sess. For additional illustrations see 119 CONG. REC. 29, 93d Cong. 1st Sess., Jan. 3, 1973; 118 CONG. REC. 17398, 92d Cong. 2d Sess., May 16, 1972; 115 CONG. REC. 24002 91st Con. 1st Sess., Sept. 3, 1969; and 111 CONG. REC. 2645, 89th Cong. 1st Sess., Feb. 11, 1965.
10. Carl Albert (Okla.).

Date: January 5, 1973.

Following the presentation of the summons, the Speaker advised the House that he had, pursuant to 2 USC §118, requested the U.S. Attorney to represent him in the action.⁽¹¹⁾

§ 16.3 The receipt of a summons and complaint naming the Clerk of the House of Representatives in his official capacity as a defendant in a civil action brought in a federal court gives rise to a question of the privilege of the House, and the matter is laid before the House for its consideration.

On Mar. 26, 1973,⁽¹²⁾ the Speaker⁽¹³⁾ laid before the House as a matter involving a question of the privilege of the House a communication from the Clerk of the House advising that he had been served with a summons and com-

11. Civil Action File No. 27-73 (U.S.D.C. D. D.C.).
12. 119 CONG. REC. 9452, 93d Cong. 1st Sess. For further examples see 119 CONG. REC. 29, 93d Cong. 1st Sess., Jan. 3, 1973; 118 CONG. REC. 34040, 92d Cong. 2d Sess., Oct. 5, 1972; 118 CONG. REC. 15311, 92d Cong. 2d Sess., May 2, 1972; 118 CONG. REC. 5025, 92d Cong. 2d Sess., Feb. 22, 1972; and 116 CONG. REC. 31182, 91st Cong. 2d Sess., Sept. 10, 1970.
13. Carl Albert (Okla.).

plaint as a defendant in a civil action⁽¹⁴⁾ brought in the Federal District Court for the District of Columbia and further advising that he had pursuant to 2 USC §118, requested the U.S. Attorney for the District of Columbia to represent him in the action.

§ 16.4 The receipt of a summons and complaint naming the Sergeant at Arms of the House of Representatives in his official capacity as a defendant in a civil action brought in a federal court raises a question of the privilege of the House, and the matter is laid before the House for its consideration.

On July 16, 1973,⁽¹⁵⁾ the Speaker⁽¹⁶⁾ laid before the House as a question of the privilege of the House a communication from the Sergeant at Arms advising that he had been served with a summons and complaint as a defendant in a civil action⁽¹⁷⁾ brought in the U.S.

14. *Mauro v Jennings et al.*, Civil Action File No. 447-73 (U.S.D.C. D. D.C.).

15. 119 CONG. REC. 23961, 23962, 93d Cong. 1st Sess. For additional examples see 116 CONG. REC. 28502, 91st Cong. 2d Sess., Aug. 12, 1970; and 109 CONG. REC. 10359, 88th Cong. 1st Sess., June 6, 1963.

16. Carl Albert (Okla.).

17. *Consumers Union of the United States, Inc. v Kenneth R. Harding*,

District Court for the District of Columbia and further advising that he had, pursuant to 2 USC §118, requested the U.S. Attorney to represent him in the action.

Service of Supplemental Petition on House Officers

§ 16.5 The receipt of a supplemental petition naming House officers as individual defendants in a civil action already pending in federal court against the House and other of its officers and Members raises a question of the privilege of the House, and the matter is submitted to the House for its consideration.

On Oct. 10, 1972,⁽¹⁸⁾ the Speaker⁽¹⁹⁾ laid before the House as a matter involving a question of the privilege of the House a communication from the clerk advising that he had received an amending and supplemental petition in connection with a case⁽²⁰⁾ pending before the U.S. District Court for the

Sergeant at Arms of the House of Representatives et al., Civil Action File No. 1328-73 (U.S.D.C. D. D.C.).

18. 118 CONG. REC. 34583, 92d Cong. 2d Sess.

19. Carl Albert (Okla.).

20. *Hillary v U.S. House of Representatives, Albert, Colmer, et al.*, Civil Action File No. 72-1126.

Eastern Division of Louisiana naming the Clerk and Sergeant at Arms of the House of Representatives as additional defendants in the action and further advising that he had, pursuant to 2 USC §118, requested the U.S. Attorney for the Eastern Division of Louisiana to represent them in the action.

Service on Capitol Architect

§ 16.6 The receipt of a summons and complaint naming the Acting Architect of the Capitol in his official capacity as a defendant in a civil action brought in a federal court gives rise to a question of the privilege of the House and the matter is laid before the House for its consideration.

On Aug. 12, 1970,⁽¹⁾ the Speaker⁽²⁾ laid before the House a communication from the Acting Architect of the Capitol informing the House that he had been served with a summons and complaint as a defendant in a civil action⁽³⁾ brought in the Federal District Court for the District of Columbia

1. 116 CONG. REC. 28502, 91st Cong. 2d Sess.
2. John W. McCormack (Mass.).
3. Civil Action File No. 2296-70 (U.S.D.C. D. D.C.).

and advising the House that he had, pursuant to 28 USC §516, requested the Department of Justice to represent him in the action.

Service of Process on the Clerk

§ 16.7 The Clerk having been served with process, including a subpoena duces tecum issued by a federal court in a civil action, informed the Speaker who laid the matter before the House.

On Nov. 15, 1973,⁽⁴⁾ the Speaker⁽⁵⁾ laid before the House as a matter involving a question of the privilege of the House a communication from the Clerk of the House advising that he had been served with a subpoena and a notice of the taking of a deposition issued by the U.S. District Court for the District of Columbia commanding his appearance for the purpose of testifying and producing certain House documents and records in connection with the case of *Nader et al. v Butz et al.*⁽⁶⁾

4. 119 CONG. REC. 37136, 37137, 93d Cong. 1st Sess. For additional examples see 118 CONG. REC. 6326, 92d Cong. 2d Sess., Mar. 1, 1972; 117 CONG. REC. 47667, 92d Cong. 1st Sess., Dec. 17, 1971; 117 CONG. REC. 47185, 92d Cong. 1st Sess., Dec. 15, 1971; and 117 CONG. REC. 39512, 92d Cong. 1st Sess., Nov. 5, 1971.
5. Carl Albert (Okla.).
6. Civil Action File No. 148-72 (U.S.D.C. D. D.C.).

Following the presentation of the communication, the House agreed to a privileged resolution⁽⁷⁾ offered by Mr. Thomas P. O'Neill, Jr., of Massachusetts, authorizing the Clerk or his designated agent to appear in response to the subpoena but permitting the production of certified copies of only those subpoenaed House papers and documents subsequently determined by the court to be material and relevant.

§ 16.8 The Clerk of the House of Representatives, having received a subpoena duces tecum from a state court, reported the matter to the Speaker who laid it before the House.

On Apr. 24, 1958,⁽⁸⁾ the Speaker⁽⁹⁾ laid before the House as a matter involving the question of the privilege of the House the following communication from the Clerk of the House:

APRIL 17, 1958.

The Honorable the SPEAKER,
House of Representatives.

SIR: From the Superior Court of the 26th Judicial District of North Carolina I have received a subpoena duces tecum, directed to me as Clerk of the

House of Representatives, to appear before said court as a witness in the case of *Anna Mae Allen et al. v. Southern Railway Company et al.*, and to bring with me certain and sundry papers therein described in the files of the House of Representatives.

The rules and practice of the House of Representatives indicates that the Clerk may not, either voluntarily or in obedience to a subpoena duces tecum, produce such papers without the consent of the House being first obtained. It is further indicated that he may not supply copies of certain of the documents and papers requested without such consent.

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Very truly yours,
RALPH R. ROBERTS,
*Clerk, United States
House of Representatives.*

Following the presentation of the communication and the reading of the subpoena to the House, a resolution⁽¹⁰⁾ was offered by Mr. John W. McCormack, of Massachusetts, authorizing the Clerk to appear in response to the subpoena but permitting the production of certified copies of only those subpoenaed House papers and documents subsequently determined by the court to be material and relevant.

§ 16.9 The Clerk of the House of Representatives, having

7. H. Res. 705.

8. 104 CONG. REC. 7262, 7263, 85th Cong. 2d Sess.

9. Sam Rayburn (Tex.).

10. H. Res. 547.

received a subpoena to appear and testify before a court of the District of Columbia in a criminal case, informed the Speaker who laid the matter before the House.

On July 13, 1965,⁽¹¹⁾ the Speaker⁽¹²⁾ laid before the House as a matter raising the question of the privilege of the House, a communication from the Clerk of the House advising that he had received a subpoena commanding his appearance for the purpose of testifying before the criminal bench of the District of Columbia Court of General Sessions in connection with *U.S. v Washington*.⁽¹³⁾ Following the presentation of the communication and the reading of the subpoena, the House agreed to a resolution⁽¹⁴⁾ offered by Mr. John E. Moss, Jr., of California, authorizing the Clerk to appear and testify.

Service of Subpena on the Doorkeeper

§ 16.10 When the Doorkeeper of the House of Representatives receives a subpoena duces tecum from a federal

11. 111 CONG. REC. 16592, 89th Cong. 1st Sess.

12. John W. McCormack (Mass.).

13. Criminal Case No. U.S. 5379-65, U.S. 5380-65.

14. H. Res. 469.

district court he reports the facts to the Speaker who lays the matter before the House.

On Apr. 13, 1961,⁽¹⁵⁾ the Speaker⁽¹⁶⁾ rose to a question of the privilege of the House and laid before the House a communication from the Doorkeeper of the House advising that he had received a subpoena directing his appearance as a witness and the production of certain described papers before the U.S. District Court for the District of Columbia in connection with *U.S. v Taylor*.⁽¹⁷⁾ Following the presentation of the communication, the House agreed to a privileged resolution⁽¹⁸⁾ offered by Mr. John W. McCormack, of Massachusetts, authorizing the Doorkeeper to appear in response to the subpoena, but permitting the production of certified copies of only those subpoenaed House papers and documents subsequently determined by the court to be material and relevant.

Service of Subpena on the Sergeant at Arms

§ 16.11 The Sergeant at Arms of the House of Representa-

15. 107 CONG. REC. 5851, 5852, 87th Cong. 1st Sess.

16. Sam Rayburn (Tex.).

17. Criminal Case No. 965-60.

18. H. Res. 256.

tives, having received a subpoena from a federal court, reported the facts to the Speaker who laid the matter before the House.

On Mar. 3, 1960,⁽¹⁹⁾ the Speaker pro tempore⁽²⁰⁾ laid before the House as a matter raising the question of the privilege of the House a communication from the Sergeant at Arms, as follows:

MARCH 3, 1960.

The Honorable SAM RAYBURN,
*Speaker of the House of
Representatives,
Washington, D.C.*

DEAR MR. SPEAKER: From the District Court of the United States for the Southern District of New York, I have received a subpoena directing the Sergeant at Arms to appear before said court as a witness in the case of the *United States v Adam Clayton Powell, Jr.* (No. 35-208).

The subpoena in question is herewith attached, and the matter is presented for such action as the House in its wisdom may see fit to take.

Respectfully,
ZEAKE W. JOHNSON, Jr.,
Sergeant at Arms.

The Speaker pro tempore then instructed the Clerk to read the subpoena to the House. At the conclusion of the reading, a privileged

resolution⁽¹⁾ offered by Mr. Carl Albert, of Oklahoma, authorizing the Sergeant at Arms to appear in response to the subpoena was agreed to.

§ 16.12 The Sergeant at Arms of the House of Representatives, having received a subpoena to appear and testify before a criminal court of the District of Columbia, informed the Speaker who laid the matter before the House.

On July 13, 1965,⁽²⁾ the Speaker⁽³⁾ laid before the House as a matter involving a question of the privilege of the House a communication from the Sergeant at Arms advising that he had received a subpoena directing his appearance to testify before the criminal branch of the District of Columbia Court of General Sessions in connection with *U.S. v Washington*.⁽⁴⁾ After the reading of the subpoena by the Clerk, a resolution⁽⁵⁾ was offered by Mr. Hale Boggs, of Louisiana, authorizing the Sergeant at Arms to appear and testify. The resolution was

19. 106 CONG. REC. 4393, 86th Cong. 2d Sess. An additional example supporting this point may be found at 100 CONG. REC. 1162, 83d Cong. 2d Sess., Feb. 2, 1954.
20. John W. McCormack (Mass.).

1. H. Res. 465.
2. 111 CONG. REC. 16529, 89th Cong. 1st Sess.
3. John W. McCormack (Mass.).
4. Criminal Case No. U.S. 5379-65, U.S. 5380-65.
5. H. Res. 456.

agreed to, and a motion to reconsider was laid on the table.

Service of Subpenas on House Employees

§ 16.13 An employee of the House having received a subpoena duces tecum in a federal civil action seeking his testimony and the production of House records in his possession, his superior informed the Speaker who laid the matter before the House.

On Apr. 25, 1966,⁽⁶⁾ the Speaker⁽⁷⁾ laid before the House as a matter involving a question of the privilege of the House a communication from the Clerk of the House advising that an employee under his authority had been served with a subpoena duces tecum commanding his appearance for the purpose of testifying and producing certain House records before the U.S. District Court for the District of Columbia in connection with *Siamis v Chizzo*.⁽⁸⁾ Following the presen-

tation of the communication, the House agreed to a resolution⁽⁹⁾ offered by Mr. Carl Albert, of Oklahoma, authorizing the employee to appear in response to the subpoena but permitting the production of certified copies of only those subpoenaed House papers and documents subsequently determined by the court to be material and I relevant.

Service of Grand Jury Subpenas on House Officers

§ 16.14 The Clerk of the House of Representatives having received a subpoena duces tecum from a federal grand jury, informed the Speaker who laid the matter before the House.

On Feb. 20, 1973,⁽¹⁰⁾ the Speaker⁽¹¹⁾ laid before the House as a matter involving a question of the privilege of the House a communication from the Clerk of the House advising that he had been served with a subpoena duces tecum commanding his appear-

6. 112 CONG. REC. 8786, 89th Cong. 2d Sess. For further illustrations see 102 CONG. REC. 7588, 84th Cong. 2d Sess., May 7, 1956; and 101 CONG. REC. 1215, 84th Cong. 1st Sess., Feb. 7, 1955.

7. John W. McCormack (Mass.).

8. Civil Action File No. 1471-63 (U.S.D.C. D. D.C.)

9. H. Res. 825.

10. 119 CONG. REC. 4490, 93d Cong. 1st Sess. For further illustrations see 118 CONG. REC. 28285, 92d Cong. 2d Sess., Aug. 15, 1972; 115 CONG. REC. 32005, 91st Cong. 1st Sess., Oct. 29, 1969; and 113 CONG. REC. 29374-76, 90th Cong. 1st Sess., Oct. 19, 1967.

11. Carl Albert (Okla.).

ance and the production of certain House records before the grand jury of the U.S. District Court for the Western District of Texas. Following the Speaker's insertion of the subpoena in the Record, the House agreed to a privileged resolution⁽¹²⁾ offered by Mr. Thomas P. O'Neill, Jr., of Massachusetts, authorizing the Clerk to appear in response to the subpoena but permitting the production of certified copies of only those subpoenaed House papers and documents subsequently determined by the court to be material and relevant.

§ 16.15 The Sergeant at Arms of the House of Representatives having been served with a subpoena duces tecum from a federal grand jury, informed the Speaker who laid the matter before the House.

On Jan. 16, 1968,⁽¹³⁾ the Speaker⁽¹⁴⁾ laid before the House as a question of the privilege of the House a communication from the Sergeant at Arms of the House

advising that he had received a subpoena duces tecum directing his appearance and the production of certain original records before the grand jury of the U.S. District Court for the District of Columbia. After the reading of the subpoena by the Clerk, a privileged resolution⁽¹⁵⁾ was offered by Mr. Carl Albert, of Oklahoma, authorizing the Sergeant at Arms to appear and deliver the requested papers and documents in response to the subpoena. The resolution was agreed to, and a motion to reconsider was laid on the table.

Service of Grand Jury Subpoenas on House Employees

§ 16.16 Where an employee of the House received a subpoena duces tecum issued by a federal grand jury, his superior informed the Speaker who laid the matter before the House.

On Oct. 19, 1967,⁽¹⁶⁾ the Speaker⁽¹⁷⁾ laid before the House as a question of the privilege of the House a communication from the Clerk advising that an employee under his jurisdiction had been served with a subpoena duces

12. H. Res. 221.

13. 114 CONG. REC. 80, 81, 90th Cong. 2d Sess. For additional examples see 113 CONG. REC. 17561, 90th Cong. 1st Sess., June 27, 1967; 111 CONG. REC. 5338, 89th Cong. 1st Sess., Mar. 18, 1965; and 99 CONG. REC. 5523, 83d Cong. 1st Sess., May 25, 1953.

14. John W. McCormack (Mass.).

15. H. Res. 1022.

16. 113 CONG. REC. 29375, 29376, 90th Cong. 1st Sess.

17. John W. McCormack (Mass.).

tecum commanding his appearance for the purpose of testifying before the grand jury of the U.S. District Court for the District of Columbia. The House then agreed to a privileged resolution⁽¹⁸⁾ offered by Mr. Carl Albert, of Oklahoma, authorizing the Speaker to permit the employee to appear in response to the subpoena.

Service of Court-martial Subpoena

§ 16.17 The Clerk of the House of Representatives, having received a subpoena duces tecum from a general court-martial, informed the Speaker who laid the matter before the House.

On Nov. 17, 1970,⁽¹⁹⁾ the Speaker⁽²⁰⁾ laid before the House as a matter involving a question of the privilege of the House a communication from the Clerk advising that he was in receipt of a subpoena duces tecum commanding his appearance as a witness and the production of certain House subcommittee executive session transcripts before a general court-martial of the United States convened at Ft. Benning, Georgia. At

18. H. Res. 950.

19. 116 CONG. REC. 37652-54, 91st Cong. 2d Sess.

20. John W. McCormack (Mass.).

the Speaker's instruction the subpoena was then read by the Clerk to the House.

Parliamentarian's Note: The Clerk's office was advised (1) that the Committee on Armed Services, and not the Clerk, was the proper custodian of executive session testimony taken before its subcommittee and that an employee of that committee should have been the recipient of the subpoenas; and (2) that the requested executive session testimony could not, under the provisions of House Resolution 15 (91st Congress) be released by any officer or employee of the House during an adjournment; but that (3) the Committee on Armed Services could meet and, pursuant to the House rules, order the testimony to be made public.

The House took no further action on the subpoenas.

Service of Notice of Taking of Deposition

§ 16.18 The Clerk of the House, having been served with a notice of taking of a deposition in a civil action in which he had been named as a defendant in his official capacity, informed the Speaker who laid the matter before the House.

On Mar. 15, 1973,⁽¹⁾ the Speaker⁽²⁾ laid before the House as a matter involving the question of the privilege of the House a communication from the Clerk advising that he had been served with a notice of the taking of a deposition in connection with a civil action⁽³⁾ pending in the U.S. District Court for the District of Columbia. Subsequently, on Mar. 19, 1973,⁽⁴⁾ the House agreed to a privileged resolution⁽⁵⁾ offered by Mr. John J. McFall, of California, authorizing the Clerk to respond to the notice.

§ 17. Service of Process on Committee Chairmen and Employees

Service of Summons and Complaint on Committee Chairman

§ 17.1 The receipt of a summons and complaint naming the chairman of a House committee as a defendant in

1. 119 CONG. REC. 7955, 7956, 93d Cong. 1st Sess.
2. Carl Albert (Okla.).
3. *Common Cause v W. Patrick Jennings et al.*, Civil Action File No. 2379-72 (U.S.D.C. D. D.C.).
4. 119 CONG. REC. 8485, 93d Cong. 1st Sess.
5. H. Res. 313.

a civil action brought in a federal court raises a question of the privilege of the House, and the matter is laid before the House for its consideration.

On May 16, 1972,⁽⁶⁾ the Speaker⁽⁷⁾ laid before the House as a matter involving a question of the privilege of the House a communication from the Chairman of the Committee on Rules advising that he had been served with a summons and complaint as a defendant in a civil action⁽⁸⁾ brought in the U.S. District Court for the Eastern District of Louisiana. At the same time, the Speaker, who stated that he and the Clerk of the House had received summons and complaint in the same action, inserted copies of the following letters in the Record:

MAY 16, 1972.

Hon. RICHARD G. KLEINDIENST,
Acting Attorney General, Department of Justice, Washington, D.C.

DEAR MR. KLEINDIENST: On May 15, 1972, I received by certified mail a Summons and complaint in Civil Action No. 72-1126 in the United States District Court for the Eastern District of Louisiana. A copy of the Summons and complaint is enclosed herewith.

6. 118 CONG. REC. 17398, 92d Cong. 2d Sess.
7. Carl Albert (Okla.).
8. Civil Action File No. 72-1126 (§H, U.S.D.C. E.D. La.).

Representative William M. Colmer, Chairman of the Committee on Rules of the House of Representatives, and the Clerk of the House of Representatives, Hon. W. Pat Jennings, have also received Summons and complaint in the action.

In accordance with the provisions of 2 U.S.C. 118, I have sent a copy of the Summons and complaint in this action to the U.S. Attorney for the Eastern District of Louisiana requesting that he take appropriate action under the supervision and direction of the Acting Attorney General. I am also sending you a copy of the letter I forwarded this date to the U.S. Attorney.

Sincerely,

CARL ALBERT,
*Speaker of the House
of Representatives.*

MAY 16, 1972.

Hon. GERALD J. GALLINGHOUSE,
*U.S. Attorney for the Eastern District
of Louisiana, New Orleans, La.*

DEAR MR. GALLINGHOUSE: I am sending you a copy of a Summons and complaint in Civil Action No. 72-1126 in the United States District Court for the Eastern District of Louisiana, against me in my official capacity as Speaker of the House of Representatives, received by certified mail on May 15, 1972.

Representative William M. Colmer, Chairman of the Committee on Rules of the House of Representatives, and the Clerk of the House of Representatives, Hon. W. Pat Jennings, have also received by certified mail copies of the Summons and complaint.

In accordance with the provisions of 2 U.S.C. 118, I respectfully request that you take appropriate action, as

deemed necessary, under the supervision and direction of the Acting Attorney General, in defense of this suit against the Speaker, the Chairman of the Committee on Rules of the House of Representatives, and the House of Representatives. I am also sending you a copy of the letter that I forwarded this date to the Acting Attorney General of the United States.

Sincerely,

CARL ALBERT,
*Speaker of the House
of Representatives.*

Subpenas Served on Committee Chairmen

§ 17.2 The chairman of a House committee, having received a subpoena duces tecum from a federal court, reported the facts to the speaker who laid the matter before the House.

On Feb. 21, 1961,⁽⁹⁾ the Chairman of the Committee on Un-American Activities, Francis E. Walter, of Pennsylvania, rose to a question of the privilege of the House and informed the House that he had been subpoenaed to appear and testify in connection with a case⁽¹⁰⁾ pending before the U.S. District Court for the Southern District of New York. Following the presentation of the

9. 107 CONG. REC. 2481, 87th Cong. 1st Sess.

10. *U.S. v Seeger*, Criminal Case No. C 152-240, Cr. 800 (U.S.D.C. S.D. N.Y.).

subpena to the House, a resolution,⁽¹¹⁾ authorizing the chairman to appear and testify, offered by Mr. John W. McCormack, of Massachusetts, was agreed to.

§ 17.3 When the chairman of a House committee receives a subpena duces tecum from the Tax Court of the United States, a question of the privilege of the House arises.

On Aug. 12, 1969,⁽¹²⁾ the Chairman of the Committee on Banking and Currency, Wright Patman, of Texas, rose to a question of the privilege of the House and informed the House that he had been served with a subpena duces tecum requesting the production of certain documents before the Tax Court of the United States. The subpena was sent to the desk, and the Speaker⁽¹³⁾ instructed the Clerk to read it to the House.

Parliamentarian's Note: Chairman Patman stated that the documents called for in the subpena were not in his possession or control, and the House took no action thereon.

§ 17.4 The chairman of a House committee, having been sub-

penaed to appear and testify before a state court, rose to a question of the privilege of the House.

On July 7, 1971,⁽¹⁴⁾ the Chairman of the Committee on Internal Security, Richard H. Ichord, of Missouri, rose to a question of the privilege of the House and addressed the Chair:

MR. ICHORD: Mr. Speaker . . . I have been subpoenaed to appear before the Superior Court of the District of Columbia on the 7th day of July 1971 at 2 p.m. in the case of United States v. Margaret Butterfield (docket No. 27078-71) and to bring with me certain papers under the control of the Committee on Internal Security.

Under the precedents of the House, I am unable to comply with this subpena duces tecum without the consent of the House, the privileges of the House being involved. I therefore submit the matter for the consideration of this body.

I send the subpena duces tecum to the desk.

The subpena was sent to the desk, and the Speaker pro tempore⁽¹⁵⁾ instructed the Clerk to read it to the House.

11. H. Res. 178.

12. 115 CONG. REC. 23354, 91st Cong. 1st Sess.

13. John W. McCormack (Mass.).

14. 117 CONG. REC. 23813, 92d Cong. 1st Sess. On the same day a similar subpena served on the Chairman of the Committee on Ways and Means, Wilbur D. Mills (Ark.), by the same court in connection with the same case was also presented to the House.

15. Hale Boggs (La.).

Service of Subpenas on Committee Employees

§ 17.5 Where a House committee employee had been subpoenaed by a federal court, in a matter related to committee business, the chairman of the committee advised the Speaker of this fact by letter and the Speaker then laid the matter before the House for its consideration.

On Feb. 21, 1961,⁽¹⁶⁾ the Speaker⁽¹⁷⁾ laid before the House as a matter giving rise to a question of the privilege of the House a communication from the Chairman of the Committee on Un-American Activities:

FEBRUARY 20, 1961.

Hon. SAM RAYBURN,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Mr. Frank S. Tavenner, Jr., an employee of the House, while serving at my direction as counsel for the Committee on Un-American Activities, received a subpoena duces tecum directing him to appear as a witness before the U.S. District Court for the District of Columbia, in the case of the *United States of America v. Martin Popper* (No. 1053-59). The return date of the subpoena has been extended to April 15, 1961.

16. 107 CONG. REC. 2482, 87th Cong. 1st Sess.

17. Sam Rayburn (Tex.).

The portion of the subpoena duces tecum requiring the production of documents was, on the 3d day of February 1961, quashed by Mr. Justice Edward M. Curran.

The subpoena in question is transmitted herewith and the matter is presented for such action as the House, in its wisdom, may see fit to take.

Sincerely yours,

FRANCIS E. WALTER,
Chairman.

After the Clerk's reading of the subpoena, the House agreed to a resolution⁽¹⁸⁾ offered by Mr. John W. McCormack, of Massachusetts, authorizing the committee employee to appear in response to the subpoena duces tecum as modified.

§ 17.6 When an employee of a House committee had been served with a subpoena from a state court, in a matter related to committee business, the chairman of the committee informed the Speaker who laid the matter before the House.

On May 21, 1962,⁽¹⁹⁾ the Speaker pro tempore,⁽²⁰⁾ rising to a question of the privilege of the House, laid before the House the

18. H. Res. 181.

19. 108 CONG. REC. 8823, 8824, 87th Cong. 2d Sess. For a further illustration see 105 CONG. REC. 5858, 86th Cong. 1st Sess., Apr. 14, 1959.

20. Carl Albert (Okla.).

following communication from the Chairman of the Committee on Un-American Activities:

MAY 21, 1962.

Hon. JOHN McCORMACK,
Speaker, House of Representatives,
Washington, D.C.

DEAR MR. SPEAKER: Mr. Donald Appell, an employee of the House, while serving at my direction as an investigator on the Committee on Un-American Activities, received a subpoena directing him to appear as a witness in the Supreme Court of the State of New York, New York County, on the 23d day of May 1962, in the case of *John Henry Faulk, plaintiff v. Aware, Inc., Laurence A. Johnson and Vincent Hartnett, defendants.*

The subpoena in question is transmitted herewith and the matter is presented for such action as the House, in its wisdom, may see fit to take.

Sincerely yours,
FRANCIS E. WALTER,
Chairman.

After a reading of the subpoena by the Clerk, a resolution⁽¹⁾ was offered by Mr. Francis E. Walter, of Pennsylvania, authorizing the employee's appearance to testify to any matter determined by the court to be material and relevant to the identification of any publicly disclosed document, but prohibiting his testimony as to any matter that may be based on knowledge acquired by him in his official capacity as committee in-

vestigator. The resolution was agreed to.

Service of Grand Jury Subpena on Committee Chairman

§ 17.7 The chairman of a House committee, having received a subpoena duces tecum from a federal grand jury, rose to a question of the privilege of the House.

On Aug. 15, 1972,⁽²⁾ the Chair recognized Mr. Charles M. Price, of Illinois:

MR. PRICE of Illinois: Mr. Speaker, I rise to a question of the privileges of the House.

THE SPEAKER:⁽³⁾ The gentleman will state the question of privilege of the House.

MR. PRICE of Illinois: Mr. Speaker, in my capacity as chairman of the Committee on Standards of Official Conduct, I have been subpoenaed to appear before the grand jury of the U.S. District Court for the Western District of Pennsylvania, on August 22, 1972, and to bring with me certain records of the Committee on Standards of Official Conduct. Under the rules and precedents of the House, I am unable to comply with the subpoena duces tecum without the permission of the House [the privileges of the House] being involved.

I therefore submit the matter for the consideration of the House.

2. 118 CONG. REC. 28286, 92d Cong. 2d Sess.

3. Carl Albert (Okla.).

1. H. Res. 650.

THE SPEAKER: The Clerk will read the subpoena.

After the reading of the subpoena, a privileged resolution⁽⁴⁾ was offered by Mr. Hale Boggs, of Louisiana, authorizing the chairman to appear in response to the subpoena but permitting the production of certified copies of only those subpoenaed House papers and documents subsequently determined by the court to be material and relevant.

Service of Grand Jury Subpoenas on Committee Employees

§ 17.8 A House committee employee, having received a subpoena duces tecum from a federal grand jury, informed the Speaker who laid the matter before the House.

On Jan. 16, 1968,⁽⁵⁾ the Speaker⁽⁶⁾ laid before the House as a matter involving the privilege of the House a communication from the clerk of the Committee on House Administration advising that he was in receipt of a sub-

4. H. Res. 1092.

5. 114 CONG. REC. 81, 90th Cong. 2d Sess. For further examples see 113 CONG. REC. 29374-76, 90th Cong. 1st Sess., Oct. 19, 1967; and 113 CONG. REC. 17562, 90th Cong. 1st Sess., June 27, 1967.

6. John W. McCormack (Mass.).

pena duces tecum commanding his appearance for the purpose of testifying and producing certain original records before the grand jury of the U.S. District Court for the District of Columbia. Following the presentation of the communication and the reading of the subpoena to the House, a privileged resolution⁽⁷⁾ was offered by Mr. Carl Albert, of Oklahoma, authorizing the committee clerk to appear and produce the requested original papers and documents in response to the subpoena. The resolution was agreed to.

Service of Discovery Orders

§ 17.9 Where a federal district court, pursuant to the Federal Rules of Criminal Procedure, issued a discovery order for the inspection and copying of certain original papers and documents in the possession and under the control of a House committee, a question of the privilege of the House arose.

On July 1, 1969,⁽⁸⁾ the Chairman of the Committee on Internal Security, Richard H. Ichord, of Missouri, rose to a question of the privilege of the House and offered

7. H. Res. 1023.

8. 115 CONG. REC. 17948, 91st Cong. 1st Sess.

a resolution⁽⁹⁾ for the consideration of the House. The resolution authorized him to make available to the U.S. attorney, in response to a discovery order issued by a federal district court pursuant to Rule 16 of the Federal Rules of Criminal Procedure, for the purpose of inspection and copying by parties in a pending criminal action,⁽¹⁰⁾ certain enumerated committee papers and documents. The resolution was agreed to.

§ 17.10 Where certain employees and former employees of a House committee were named parties defendant in a federal civil action and had received discovery orders and interrogatories, a question of the privilege of the House was invoked.

On Mar. 2, 1971,⁽¹¹⁾ Mr. Richard H. Ichord, of Missouri, rising to a question of the privilege of the House, offered a resolution⁽¹²⁾ for the consideration of the House. The resolution authorized specified employees and former employees of the Committee on In-

ternal Security to testify and produce certain documents in response to discovery orders and written and oral interrogatories served on them as parties defendant in a civil action⁽¹³⁾ pending before the U.S. District Court for the Northern District of Illinois. The previous question was immediately moved on the resolution. Mr. Abner Mikva, of Illinois, objected to the vote because a quorum was not present. On a call of the roll pursuant to Rule XV, the resolution was agreed to.

§ 18. Authorization to Respond to Process

When the Clerk or other officer of the House is served with a subpoena duces tecum when the House is in session, the House ordinarily deals with each subpoena by resolution on an individual basis. During periods of adjournment, however, the current practice is to authorize the officer in receipt of such a court order to appear (but not to take original documents of the House) pursuant to a resolution providing continuing authority to respond during that period. The court may be provided with copies of House documents except

9. H. Res. 459.

10. *U.S. v Stamler, Hall, and Cohen*, Criminal Action No. 67 CR 393, 67 CR 394, 67 CR 395 (U.S.D.C. No. 1). Ill).

11. 117 CONG. REC. 4584-93, 92D Cong. 1st Sess.

12. H. Res. 264.

13. Civil Action File No. 65 C 800, 65 C 2050 (U.S.D.C. No. D. Ill.).

those taken in executive session, upon the court's determination of their relevancy.

Prior to the 80th Congress, it was not the custom for the House to agree to resolutions providing continuing authority for the Clerk or other House officers to respond to subpoenas duces tecum during periods of adjournment. From the 80th through the 83d Congresses, resolutions were adopted providing for continuing authority to respond to subpoenas duces tecum where the court issuing the subpoena required the documents for use in cases relating to the refusal of witnesses to testify before congressional committees. These resolutions pertained only to subpoenas issued by courts of the United States.

For example, the 80th Congress approved a resolution which provided that when, during that Congress, a subpoena duces tecum was directed to the Clerk or any officer or employee of the House from any court of the United States considering a case based on the refusal of a witness to appear or testify before a congressional committee, the Clerk or other officer was authorized to appear but not with any documents. The courts were, however, given permission to make copies of relevant documents.⁽¹⁴⁾ In the second session of

the 83d Congress, the House adopted a similar resolution which could be invoked during any period of adjournment of that Congress.⁽¹⁵⁾

In the 84th and subsequent Congresses, the House approved of resolutions that provided that when documentary evidence under the control of the House was needed in any court of justice during any recess or adjournment of that Congress, the Clerk or other House officer was authorized to appear in answer to a subpoena duces tecum but not to take documents. The courts were given permission to make copies of documents (except for executive session materials) upon the issuance of a court order declaring their relevancy.⁽¹⁶⁾

See also H. Res. 864, 96 CONG. REC. 15636, 81st Cong. 2d Sess., Sept. 22, 1950; H. Res. 481, 97 CONG. REC. 13777, 82d Cong. 1st Sess., Oct. 20, 1951; and H. Res. 391, 99 CONG. REC. 11132, 83d Cong. 1st Sess., Aug. 3, 1953.

15. H. Res. 711, 100 CONG. REC. 15547, 83d Cong. 2d Sess., Aug. 20, 1954.

16. H. Res. 341, 101 CONG. REC. 13063, 84th Cong. 1st Sess., Aug. 2, 1955. See also H. Res. 416, 103 CONG. REC. 16759, 16760, 85th Cong. 1st Sess., Aug. 30, 1957; and H. Res. 224, 105 CONG. REC. 5260, 86th Cong. 1st Sess., Mar. 25, 1959.

14. H. Res. 584, 94 CONG. REC. 5433, 80th Cong. 2d Sess., May 6, 1948.

Speaker's Power to Authorize Response to Process

§ 18.1 On one occasion, the House by resolution authorized the Speaker to permit House officers and employees to appear in response to subpoenas issued by a U.S. District Court in connection with an investigation being conducted by a grand jury.

On Oct. 19, 1967,⁽¹⁷⁾ communications from the Clerk of the House and the chairman of a House committee were presented to the House advising that they were in receipt of subpoenas issued by the U.S. District Court for the District of Columbia. Mr. Carl Albert, of Oklahoma, offered a resolution⁽¹⁸⁾ giving the Speaker authorization to permit certain officers and employees to respond to the subpoenas. The resolution provided:

Whereas in the investigation of possible violations of Title 18, United States Code, Sections 201, 287, 371, 641, 1001 and 1505, a subpoena ad testificandum was issued by the United States District Court for the District of Columbia and addressed to W. Pat Jennings, Clerk of the House of Representatives, directing him to appear before the grand jury of said court

on October 23, 1967, to testify in connection with matters under investigation by the grand jury; and

Whereas other officers and staff employees of the House of Representatives have received, or may receive, subpoenas ad testificandum to appear before the said grand jury in connection with the before-mentioned investigation; and

Whereas information secured by officers and staff employees of the House of Representatives pursuant to their official duties as such officers or employees may not be revealed without the consent of the House: Therefore be it

Resolved, That W. Pat Jennings, Clerk of the House of Representatives, is authorized to appear in response to the subpoena before-mentioned as a witness before the grand jury; and be it further

Resolved, That the Speaker of the House of Representatives is authorized to permit any other officer or employee of the House who is in receipt of or shall receive a subpoena ad testificandum in connection with the proceedings conducted by the grand jury before-mentioned to appear in response thereto; and be it further

Resolved, That a copy of these resolutions be transmitted to the said court.

The resolution was agreed to.

A motion to reconsider was laid on the table.

Parliamentarian's Note: The U.S. attorney had advised the Speaker that several officers and employees of the House might be subpoenaed to appear and testify

17. 113 CONG. REC. 29374-76, 90th Cong. 1st Sess.

18. H. Res. 950.

before the federal grand jury in connection with its investigation into possible violations of the Criminal Code. Rather than have each officer and employee authorized by separate resolution, the Speaker was given the authority to authorize such appearances. Each officer and employee who thereafter received a subpoena in connection with the grand jury proceedings informed the Speaker who then responded with a written authorization.

Duration of Authorization

§ 18.2 Where one Congress has, by resolution, authorized a Member to appear in response to a subpoena issued by a federal court, and the court's proceedings extend into the next Congress, the Member must again obtain permission of the House if he still wishes to respond to the subpoena.

On Apr. 13, 1961,⁽¹⁹⁾ the Chair recognized Mr. James Roosevelt, of California, on a question of privilege:

MR. ROOSEVELT: Mr. Speaker, I rise to a question of the privilege of the House.

19. 107 CONG. REC. 5844, 87th Cong. 1st Sess. See also 107 CONG. REC. 2480, 87th Cong. 1st Sess., Feb. 21, 1961.

THE SPEAKER:⁽²⁰⁾ The gentleman will state it.

MR. ROOSEVELT: Mr. Speaker, during the 86th Congress, the House authorized me to appear in response to a subpoena issued by the U.S. District Court for the District of Columbia, directing me to appear in Washington, D.C., to testify in the case of the United States of America against Martin Popper.

The case was originally scheduled for trial on June 21, 1960, but was adjourned and is now scheduled to begin on April 25, 1961.

Under the precedents of the House, I am unable to comply with this subpoena without the consent of this House, the privileges of the House being involved. I, therefore, submit the matter for the consideration of this body.

Mr. Speaker, I send to the desk the subpoena.

THE SPEAKER: The Clerk will read the subpoena.

After the Clerk read the subpoena, the House agreed to a resolution⁽²¹⁾ offered by Mr. John W. McCormack, of Massachusetts, authorizing the Member to appear in response to the subpoena.

§ 18.3 The Clerk having notified the House that he had been authorized by the preceding Congress to appear as a witness and to produce specified documents in a certain case and that the case

20. Sam Rayburn (Tex.).

21. H. Res. 254.

was still in progress, the House passed a resolution permitting his further appearance as a witness.

On Mar. 27, 1961,⁽²²⁾ the Speaker⁽¹⁾ laid before the House as a matter involving a question of the privilege of the House the following communication from the Clerk:

MARCH 24, 1961.

*The Honorable the SPEAKER,
House of Representatives.*

SIR: As the Clerk of the House of the 86th Congress I received, from the U.S. District Court for the Southern District of New York, two subpoenas duces tecum, one in the case of Peter Seeger (criminal No. C-152-240), and the other in the case of Elliott Sullivan (criminal No. C-152-238). Both subpoenas directed me to appear before said court as a witness in these cases and to bring with me certain and sundry papers therein described in the files of the House of Representatives.

This matter was brought to the attention of the last House, as a result of which House Resolutions 476 and 477 were adopted on March 15, 1960.

Since the development of these cases has extended into the 87th Congress and it is well recognized that each House controls its own papers, this matter is presented for such action as the House, in its wisdom, may see fit to take.

22. 107 CONG. REC. 4917-19, 87th Cong. 1st Sess.

1. Sam Rayburn (Tex.).

Respectfully yours,

RALPH R. ROBERTS,
Clerk, U.S. House of Representatives.

After a reading of the subpoena to the House, Mr. John W. McCormack, of Massachusetts, offered a resolution⁽²⁾ authorizing the Clerk to appear in response to the subpoena but permitting the production of certified copies of only those subpoena House papers and documents subsequently determined by the court to be material and relevant.

Authorization During Recesses and Adjournments

§ 18.4 The House may, by resolution, authorize court appearances while prohibiting the disclosure of minutes or transcripts of committee executive sessions in response to subpoenas served upon Members, officers, or employees during recesses and adjournments.

On Jan. 13, 1973,⁽³⁾ Mr. Thomas P. O'Neill, Jr., of Massachusetts, offered for immediate consideration the following resolution:⁽⁴⁾

2. H. Res. 234.

3. 119 CONG. REC. 30, 31, 93d Cong. 1st Sess. For similar authorizing resolutions adopted by recent Congresses see 117 CONG. REC. 16, 92d Cong. 1st Sess., Jan. 21, 1971; 115 CONG. REC. 37, 91st Cong. 1st Sess., Jan. 3, 1969; and 113 CONG. REC. 35, 90th Cong. 1st Sess., Jan. 10, 1967.

4. H. Res. 12.

Whereas, by the privileges of this House no evidence of a documentary character under the control and in the possession of the House of Representatives can, by the mandate of process of the ordinary courts of justice, be taken from such control or possession except by its permission: Therefore be it

Resolved, That when it appears by the order of any court in the United States or a judge thereof, or of any legal officer charged with the administration of the orders of such court or judge, that documentary evidence in the possession and under the control of the House is needful for use in any court of justice or before any judge or such legal officer, for the promotion of justice, this House will take such action thereon as will promote the ends of justice consistently with the privileges and rights of this House; be it further

Resolved, That during any recess or adjournment of its Ninety-third Congress, when a subpoena or other order for the production or disclosure of information is by the due process of any court in the United States served upon any Member, officer, or employee of the House of Representatives, directing appearance as a witness before the said court at any time and the production of certain and sundry papers in the possession and under the control of the House of Representatives, that any such Member, officer, or employee of the House, be authorized to appear before said court at the place and time named in any such subpoena or order, but no papers or documents in the possession or under the control of the House of Representatives shall be produced in response thereto; and be it further

Resolved, That when any said court determines upon the materiality and the relevancy of the papers or documents called for in the subpoena or other order, then said court, through any of its officers or agents, shall have full permission to attend with all proper parties to the proceedings before said court and at a place under the orders and control of the House of Representatives and take copies of the said documents or papers and the Clerk of the House is authorized to supply certified copies of such documents that the court has found to be material and relevant, except that under no circumstances shall any minutes or transcripts of executive sessions, or any evidence of witnesses in respect thereto, be disclosed or copied, nor shall the possession of said documents and papers by any Member, officer, or employee of the House be disturbed or removed from their place of file or custody under said Member, officer, or employee; and be it further

Resolved, That a copy of these resolutions be transmitted by the Clerk of the House to any of said courts whenever such writs of subpoena or other orders are issued and served as aforesaid.

The resolution was agreed to.

A motion to reconsider was laid on the table.

§ 19. Providing for Legal Counsel

Legal counsel, through the Department of Justice, is made available to the officers—but not

the Members—of the House pursuant to 2 USC §118, which provides in part:

In any action brought against any person for or on account of anything done by him while an officer of either House of Congress in the discharge of his official duty, in executing any order of such House, the district attorney for the district within which the action is brought, on being thereto requested by the officer sued, shall enter an appearance in behalf of such officer . . . and the defense of such action shall thenceforth be conducted under the supervision and direction of the Attorney General.

However, the Attorney General has recommended that the House retain other legal counsel in cases where he had determined that a conflict may have existed between the legislative and executive interests.

Appointment of Special Counsel by the Speaker

§ 19.1 On one occasion the House, by resolution, authorized the Speaker to appoint and fix the compensation for a special counsel to represent the House and those Members named as defendants in a suit brought by a former Member.

On Mar. 9, 1967,⁽⁵⁾ the Speaker⁽⁶⁾ announced as a matter involving a question of the privilege of the House, that he and certain other Members and officers of the House had been served with a summons issued by the U.S. District Court for the District of Columbia in connection with an action⁽⁷⁾ brought by Adam Clayton Powell, Jr. Following the reading of the summons by the Clerk, Mr. Hale Boggs, of Louisiana, rose to a question of the privilege of the House and offered a resolution (H. Res. 376) as follows:

Whereas Adam Clayton Powell, Jr., et al., on March 8, 1967, filed a suit in the United States District Court for the District of Columbia, naming as defendants certain Members, and officers of the House of Representatives, and contesting certain actions of the House of Representatives; and

Whereas this suit raises questions concerning the rights and privileges of the House of Representatives, the separation of powers between the legislative and judicial branches of the Government and fundamental constitutional issues: Now, therefore, be it

Resolved, That the Speaker of the House of Representatives of the United States is hereby authorized to appoint and fix the compensation of such spe-

5. 113 CONG. REC. 6035–48, 90th Cong. 1st Sess.

6. John W. McCormack (Mass.).

7. Civil Action File No. 559–61 (U.S.D.C.D. D.C.).

cial counsel as he may deem necessary to represent the House of Representatives, its Members and officers named as defendants, in the suit filed by Adam Clayton Powell, Jr., et al. in the United States District Court for the District of Columbia, as well as in any similar or related proceeding brought in any court of the United States; and be it further

Resolved, That any expenses incurred pursuant to these resolutions, including the compensation of such special counsel and any costs incurred thereby, shall be paid from the contingent fund of the House on vouchers authorized and signed by the Speaker of the House of Representatives and approved by the Committee on House Administration; and be it further

Resolved, That the Clerk of the House of Representatives transmit a copy of these resolutions to the aforementioned court and to any other court in which related legal proceedings may be brought.

Debate on the resolution ensued, after which the resolution was agreed to.⁽⁸⁾

8. *Parliamentarian's Note*: On Mar. 14, 1967, the Speaker announced the appointment of special counsel pursuant to H. Res. 376. 113 CONG. REC. 6603, 90th Cong. 1st Sess. The House, on Feb. 17, 1969, by simple resolution (H. Res. 243) continued the authority granted the Speaker by the provisions of H. Res. 376, 90th Congress, to retain special counsel, 115 CONG. REC. 3359, 91st Cong. 1st Sess.

Appointment of Special Counsel for Members and Employees

§ 19.2 The House may, by resolution, authorize a committee to arrange for the legal defense of certain committee members and employees who are named in their official capacities as defendants in a civil action.

On Aug. 1, 1953,⁽⁹⁾ Mr. Charles A. Halleck, of Indiana, offered a resolution⁽¹⁰⁾ authorizing the Committee on the Judiciary to file appearances, to provide counsel and to provide for the defense of certain members and employees of the Committee on Un-American Activities who had been named as parties defendant in a civil action⁽¹¹⁾ brought in the Superior Court for the State of California. The resolution stated:

Whereas Harold H. Velde, of Illinois, Donald L. Jackson, of California, Morgan M. Moulder, of Missouri, Clyde Doyle, of California, and James B. Frazier, Jr., of Tennessee, all Representatives in the Congress of the United States; and Louis J. Russell, and William Wheeler, employees of the House of Representatives, were by sub-

9. 99 CONG. REC. 10949, 10950, 83d Cong. 1st Sess.

10. H. Res. 386.

11. *Michael Wilson et al. v Loew's Inc., et al.*

poenas commanded to appear on Monday and Tuesday, March 30 and 31, 1953 in the city of Los Angeles, Calif., and to testify and give their depositions in the case of *Michael Wilson, et al. v. Loew's, Incorporated, et al.*, an action pending in the Supreme Court of California in and for the County of Los Angeles; and . . .

Whereas Harold H. Velde, Donald L. Jackson, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Jr., Louis J. Russell, and William Wheeler appeared specially in the case of *Michael Wilson, et al. versus Loew's Incorporated, et al.*, for the purpose of moving to set aside the service of summonses and to quash the subpoenas with which they had been served; and

Whereas on July 20, 1953, the Superior Court of the State of California in and for the County of Los Angeles ruled that the aforesaid summonses served upon Harold H. Velde, Morgan M. Moulder, James B. Frazier, Jr., and Louis J. Russell should be set aside for the reason that it was the public policy of the State of California "that nonresident members and attachés of a congressional committee who enter the territorial jurisdiction of its courts for the controlling purpose of conducting legislative hearings pursuant to law should be privileged from the service of process in civil litigation"; and . . . Whereas on July 20, 1953, the Superior Court of the State of California in and for the County of Los Angeles further ruled that the subpoenas served on Clyde Doyle and Donald Jackson should be recalled and quashed because such service was invalid under the aforementioned article I, section 6, of the Constitution of the United States; and

Whereas the case of *Michael Wilson, et al. v. Loew's Incorporated, et al.* in which the aforementioned Members, former Members, and employees of the House of Representatives are named parties defendant is still pending; and

Whereas the summonses with respect to Donald L. Jackson, Clyde Doyle, and William Wheeler and the subpoena with respect to William Wheeler in the case of *Michael Wilson, et al. v. Loew's Incorporated, et al.* have not been quashed:

Resolved, That the House of Representatives hereby approves of the special appearances of Harold H. Velde, Donald L. Jackson, Morgan M. Moulder, Clyde Doyle, James B. Frazier, Jr., Louis J. Russell, and William Wheeler heretofore entered in the case of *Michael Wilson, et al. v. Loew's Incorporated, et al.*; and be it further

Resolved, That the Committee on the Judiciary, acting as a whole or by subcommittee, is hereby authorized to direct the filing in the case of *Michael Wilson, et al. v. Loew's Incorporated, et al.* of such special or general appearances on behalf of any of the Members, former Members, or employees of the House of Representatives named as defendants therein, and to direct such other or further action with respect to the aforementioned defendants in such manner as will, in the judgment of the Committee on the Judiciary, be consistent with the rights and privileges of the House of Representatives; and be it further

Resolved, That the Committee on the Judiciary is also authorized and directed to arrange for the defense of the Members, former Members, and employees of the Committee on Un-Amer-

ican Activities in any suit hereafter brought against such Members, former Members, and employees, or any one or more of them, growing out of the actions of such Members, former Members, and employees while performing such duties and obligations imposed upon them by the laws of the Congress and the rules and resolutions of the House of Representatives. The Committee on the Judiciary is authorized to incur all expenses necessary for the purposes hereof. . . .

The resolution was agreed to, and a motion to reconsider was laid on the table.⁽¹²⁾

Authorizing the Clerk to Appoint Special Counsel

§ 19.3 On one occasion the House, by resolution, authorized the Clerk to appoint and fix compensation for counsel to represent him in any suit brought against him as supervisory officer under the Corrupt Practices Act of 1925 or the Federal Election Campaign Act of 1971.

12. *Parliamentarian's Note*: On Sept. 6, 1961, the House, by resolution (H. Res. 417), continued the authority of the Committee on the Judiciary granted by the provisions of H. Res. 386, 83d Cong., to arrange for the legal defense of members, former members and employees of the Committee on Un-American Activities. 107 CONG. REC. 18240, 87th Cong. 1st Sess.

On Feb. 22, 1972,⁽¹³⁾ the Speaker⁽¹⁴⁾ laid before the House a communication from the Clerk advising that a civil action⁽¹⁵⁾ had been filed in the U.S. District Court for the District of Columbia naming, among others, the Clerk of the House as a party defendant. The Clerk in his communication also advised that pursuant to 2 USC §118 he had on Feb. 18, 1972, written to the Acting Attorney General of the United States and to the U.S. Attorney for the District of Columbia requesting that they carry out their assigned statutory responsibilities in defending the Clerk in this matter.

On Mar. 15, 1972,⁽¹⁶⁾ the Speaker laid before the House a communication from the Clerk advising that in response to his request of Feb. 18, 1972, he was in receipt of replies from the Department of Justice and the U.S. Attorney for the District of Columbia in which they agreed, pursuant to 2 USC §118, to furnish representation for the Clerk in the civil action unless a "divergence of interest" developed between the positions of

13. 118 CONG. REC. 5024, 92d Cong. 2d Sess.

14. Carl Albert (Okla.).

15. *Nader et al. v Jennings et al.*, Civil Action File No. 243-72 (U.S.D.C. D. D.C.).

16. 118 CONG. REC. 8470, 92d Cong. 2d Sess.

the Clerk and the Justice Department.

On May 3, 1972, the Clerk received a letter from the Attorney General stating that a “divergence of interest” had developed between the positions of the Clerk and the Justice Department and requesting the Clerk to obtain other counsel. The letter was not communicated to the Speaker or laid before the House. Pursuant to the authority granted the Clerk in House Resolution 955 the Clerk obtained other counsel.

On May 3, 1972,⁽¹⁷⁾ Mr. Wayne L. Hays, of Ohio, offered the resolution below (H. Res. 955) as a matter involving the question of the privilege of the House:

Resolved, That the Clerk of the House of Representatives is hereby authorized to appoint and fix the compensation of such special counsel as he may deem necessary to represent the Clerk and the interests of the House in any suit now pending or hereafter brought against the Clerk arising out of his actions while performing duties or obligations imposed upon him by the Federal Corrupt Practices Act, 1925, or the Federal Election Campaign Act of 1971; and be it further

Resolved, That any expenses incurred pursuant to these resolutions, including the compensation of such special counsel and any costs incurred thereby, shall be paid from the contin-

gent fund of the House on vouchers approved by the Committee on House Administration.

The House agreed to the resolution.

On Jan. 6, 1973,⁽¹⁸⁾ the House, by unanimous consent, agreed to a resolution⁽¹⁹⁾ continuing the authority of the Clerk to appoint and fix compensation for legal counsel in suits brought against him under the Corrupt Practices Act of 1925 or the Federal Election Campaign Act of 1971.

Parliamentarian's Note: The provision for payment of such expenses is now permanent law [see 87 Stat. 527 at p. 537, Pub. L. No. 93-145 (Nov. 1, 1973)], but the statute authorizes compensation only for attorneys who represent the Clerk in suits brought against him in the performance of his official duties as mandated by either the Federal Corrupt Practices Act of 1925 or the Federal Election Campaign Act of 1971. There is no comparable provision of law which authorizes the payment by the House of attorneys' fees for Members indicted, sued, or subpoenaed as witnesses either in their official or individual capacities.

17. 118 CONG. REC. 15627, 15628, 92d Cong. 2d Sess.

18. 119 CONG. REC. 379, 93d Cong. 1st Sess.

19. H. Res. 92.

D. PERSONAL PRIVILEGE OF MEMBER

§ 20. In General; Definition

Under Rule IX,⁽²⁰⁾ the House is deemed to be presented with a question of personal privilege whenever a question arises as to the rights, reputation, and conduct of a Member, individually, in his representative capacity.⁽¹⁾

While a question of personal privilege need not be raised in the form of a resolution, a Member raising such a question must in the first instance state to the Chair the grounds upon which the question is based.⁽²⁾ Once a Member is recognized for the purpose of raising a question of personal privilege, the scope of his argument is limited to the question raised.⁽³⁾ Accepted practice also precludes the question being raised either during the time of another Member's control of the floor⁽⁴⁾ or while another question of privilege is pending before the House.⁽⁵⁾

20. *House Rules and Manual* §661 (1973).

1. Basis of questions of personal privilege, see §§24 et seq., *infra*.
2. See §21.1, *infra*.
3. See §§22.5, 22.6, *infra*.
4. See §§23.2, 23.3, *infra*.
5. 80 CONG. REC. 8222, 74th Cong. 2d Sess. See §5.4, *supra*, for a detailed discussion of this precedent.

§ 21. Raising the Question; Procedure***Statement of Grounds***

§ 21.1 In raising a question of personal privilege a Member in the first instance must state to the Chair for his decision the grounds upon which he bases his question.

On Apr. 11, 1935,⁽⁶⁾ Mr. Joseph P. Monaghan, of Montana, rose to a question of personal privilege and stated, with reference to Rule IX, "under the question of personal privilege I cite the integrity of the proceedings of the House. I cannot see that this rule adequately protects this House so far as giving it and the public adequate information as to the rule."

A point of order was then made by Mr. John J. O'Connor, of New York, that the gentleman had not stated a question of personal privilege.

In his ruling sustaining the point of order, the Speaker⁽⁷⁾ stated:

6. 79 CONG. REC. 5454, 5455, 74th Cong. 1st Sess. For additional illustrations see 118 CONG. REC. 13491-97, 92d Cong. 2d Sess., Apr. 19, 1972; and 84 CONG. REC. 5033-35, 76th Cong. 1st Sess., May 2, 1939.
7. Joseph W. Byrns (Tenn.).

It is necessary for the gentleman first to state his question of personal privilege as a basis for any argument that he may desire to submit. The Chair has no desire other than to see that the gentleman and every Member of the House is protected under the rules. The rules provide that a gentleman who raises a question of personal privilege must first state his question before he proceeds to argue with reference to it.

Submission of Material Containing Objectionable Remarks

§ 21.2 When a Member raises a question of personal privilege based on the alleged insertion in the Record of unparliamentary language, he must submit the transcript of the Record to the Chair.

On Apr. 7, 1943,⁽⁸⁾ Mr. Emanuel Celler, of New York, rose to a question of personal privilege, stating that certain remarks of a Member not made on the floor but inserted in the Record for Apr. 2, 1943, reflected upon his integrity. The following exchange then ensued:

THE SPEAKER:⁽⁹⁾ Will the gentleman send that Record up to the chair? Does the gentleman from New York have the transcript and know that that was inserted?

MR. CELLER: I have not the transcript with me, but I remember what

was stated by the gentleman and it is not reflected accurately in the Record.

Furthermore, the gentleman made the statement that I was the Jewish gentleman from New York; and on that score I rise to a question of personal privilege.

THE SPEAKER: The Chair wants to see the original transcript of the remarks of the gentleman from Mississippi.

MR. CELLER: I can read more; there is more in that Record, Mr. Speaker, which was not uttered on the floor of the House. I shall be very brief, Mr. Speaker.

THE SPEAKER: The Chair is not going to rule on this question without seeing the original transcript and it is not here. If there is no objection, the gentleman may proceed for 10 minutes.

§ 21.3 On one occasion a Member was recognized to raise a question of personal privilege, based on comments appearing in a local newspaper, although the Record does not show that the material was first submitted to the Chair for examination.

On June 22, 1966,⁽¹⁰⁾ the Chair recognized Mr. Charles E. Chamberlain, of Michigan, on a question of privilege:

MR. CHAMBERLAIN: Mr. Speaker, I rise as a matter of personal privilege.

THE SPEAKER:⁽¹¹⁾ The gentleman will state his matter of personal privilege.

8. 89 CONG. REC. 3065, 78th Cong. 1st Sess.

9. Sam Rayburn (Tex.).

10. 112 CONG. REC. 13907, 89th Cong. 2d Sess.

11. John W. McCormack (Mass.).

MR. CHAMBERLAIN: Mr. Speaker, I rise with respect to an article which appeared in the Washington Post this morning entitled "Question: Do Congressmen Steal," by the columnists Drew Pearson and Jack Anderson.

THE SPEAKER: The gentleman from Michigan is recognized under the question of personal privilege.

Debate on the question then ensued.

In the Committee of the Whole

§ 21.4 Under the modern practice, a question of personal privilege may not be raised in the Committee of the Whole.

On Dec. 13, 1973,⁽¹²⁾ during consideration by the Committee of the Whole of amendments to H. R. 11450, the Energy Emergency Act, Mr. John D. Dingell, of Michigan, rose to a question of personal privilege. In refusing to grant recognition to the Member for that purpose, the Chairman pro tempore⁽¹³⁾ stated that a question of personal privilege could not be entertained in the Committee of the Whole.⁽¹⁴⁾

12. 119 CONG. REC. 41271, 93d Cong. 1st Sess. For further illustrations see 115 CONG. REC. 24372, 91st Cong. 1st Sess., Sept. 4, 1969; 105 CONG. REC. 11289, 86th Cong. 1st Sess., June 18, 1959; and 95 CONG. REC. 2652, 81st Cong. 1st Sess., Mar. 16, 1949.

13. John J. McFall (Calif.).

14. *Parliamentarian's Note*: Although pursuant to the modern practice a

§ 22. Debate on the Question; Speeches

Applicability of Hour Rule

§ 22.1 The hour rule applies to debate on a question of personal privilege of a Member.

On Apr. 19, 1972,⁽¹⁵⁾ Mr. Cornelius E. Gallagher, of New Jersey, rose to a question of personal privilege. After hearing Mr. Gallagher's statement of the question, the Speaker⁽¹⁶⁾ recognized him for one hour.

Response to Member Raising Question

§ 22.2 On one occasion, a Member asked for a special order which he used to respond to a question of personal privilege raised by another Member, in order to deny any intention to impugn the motives or veracity of that Member.

question of personal privilege may not be raised in the Committee of the Whole, early precedent suggests that such a question could be raised if the matter in issue arose during the Committee proceedings. See 3 Hinds' Precedents §2540.

15. 118 CONG. REC. 13491, 92d Cong. 2d Sess.

16. Carl Albert (Okla.).

On July 29, 1970,⁽¹⁷⁾ the Speaker pro tempore⁽¹⁸⁾ announced that, under a previous order of the House, Mr. Philip M. Crane, of Illinois, was recognized for 45 minutes. Mr. Crane then took the floor to respond to a question of personal privilege raised by Mr. Augustus F. Hawkins, of California, and denied any intention to impugn the motives or veracity of that Member.⁽¹⁾

Special-order Speech as Alternative to Raising the Question

§ 22.3 Rather than raising the question of personal privilege, a Member obtained unanimous consent to proceed for five minutes—to refute a newspaper’s criticism—during that part of the day when he would normally have been recognized for only a one-minute speech.

On June 29, 1962,⁽²⁾ during proceedings when Members were being recognized for one-minute speeches, the Speaker⁽³⁾ recog-

nized Mr. H. Carl Andersen, of Minnesota, for the purpose of seeking unanimous consent that he be permitted to proceed for five minutes to revise and extend his remarks. There being no objection to the request, the Member proceeded to refute a newspaper charge of improper conduct which had been made against him.⁽⁴⁾

§ 22.4 On one occasion, in lieu of raising a question of personal privilege, a Member took the floor for a one-minute speech to respond to a newspaper article which included an unfavorable reference to his congressional service.

On Nov. 22, 1967,⁽⁵⁾ Mr. Paul A. Fino, of New York, asked and was given permission to address the House. He then delivered a one-minute speech responding to a newspaper article which included derogatory comments on his congressional service.⁽⁶⁾

17. 116 CONG. REC. 26436–39, 91st Cong. 2d Sess.

18. Harley O. Staggers (W. Va.).

1. See 116 CONG. REC. 26002, 91st Cong. 2d Sess., July 28, 1970.

2. 108 CONG. REC. 12297, 87th Cong. 2d Sess.

3. John W. McCormack (Mass.).

4. *Parliamentarian’s Note*: Mr. Andersen had requested, before the opening of the session, that he be recognized on the point of personal privilege. Since the House had a busy schedule, the Speaker suggested that the business of the House could be expedited if Mr. Andersen would simply ask to proceed for five minutes rather than take an hour under a point of personal privilege.

5. 113 CONG. REC. 33693, 90th Cong. 1st Sess.

6. *Parliamentarian’s Note*: Mr. Fino had asked the Speaker to recognize

§ 22.5 Although in stating a question of personal privilege a Member is required to confine his remarks to the question involved, he is entitled to discuss related matters necessary to challenge the charge against him.

On Feb. 28, 1956,⁽⁷⁾ during his statement of a question of personal privilege based on a newspaper article assailing his integrity, Mr. Craig Hosmer, of California, made reference to certain extraneous matters, including informational tables. A point of order against the statement of the question was raised by Mr. Byron G. Rogers, of Colorado, as follows:

. . . For the last 5 minutes the gentleman has made no reference to the truth or falsity of the charge that he raised under his question of personal privilege. On the contrary, he has placed before the Members of the House a chart, and from that he now proceeds to discuss the bill. It has no relation to the truth or falsity of the charge. The gentleman has refused to permit anyone to ask him any questions and proceeds to discuss this bill,

him on a point of personal privilege, but it was suggested that a one-minute speech would serve his purpose equally well, since there was no business scheduled for the day, and he could be recognized following the reading of the Journal.

7. 102 CONG. REC. 3477, 3479, 3480, 84th Cong. 2d Sess.

so that it does not come within the definition of personal privilege, on which grounds he sought the floor.

In his decision overruling the point of order the Speaker pro tempore⁽⁸⁾ said:

The Chair might state that he feels that the gentleman from California is very close to the line where the Chair may sustain a point of order. As the Chair understands it, the gentleman has the right to discuss the facts involved in the pending bill insofar as that is necessary in order for the gentleman to express his views with reference to the charge of falsehood contained in the editorial, and to answer that charge, and make his record in that respect. The Chair again suggests to the gentleman from California, having in mind the observations of the Chair, particularly those just made, that he proceed in order and confine his discussion of the bill at this time only to that which is necessary to challenge the charge of falsehood contained in the editorial.

§ 23. Precedence of the Question; Interrupting Other Business

Precedence as to the Journal

§ 23.1 A Member rising to a question of personal privilege may not interrupt the reading of the Journal.

8. John W. McCormack (Mass.).

On the legislative day of Oct. 8, 1968,⁽⁹⁾ Mr. Robert Taft, Jr., of Ohio, rose to obtain recognition during the reading of the Journal:

MR. TAFT: Mr. Speaker——

THE SPEAKER:⁽¹⁰⁾ For what purpose does the gentleman from Ohio rise?

MR. TAFT: Mr. Speaker, I have a privileged motion.

MR. [SIDNEY R.] YATES [of Illinois]: A point of order, Mr. Speaker. That is not in order until the reading of the Journal has been completed.

THE SPEAKER: Will the gentleman from Ohio state his privileged motion?

MR. TAFT: Mr. Speaker, my motion is on a point of personal privilege.

THE SPEAKER: Will the gentleman from Ohio state whether it is a point of personal privilege or a privileged motion?

MR. TAFT: It is a privileged motion, and a motion of personal privilege.

Under rule IX questions of personal privilege are privileged motions, ahead of the reading of the Journal.

THE SPEAKER: The Chair will advise the gentleman that a question of personal privilege should be made later after the Journal has been disposed of.

If the gentleman has a matter of privilege of the House, that is an entirely different situation.

MR. TAFT: I believe, Mr. Speaker, this involves not only personal privilege as an individual, but also as a Member of the House and also the privileges of all Members of the House.

9. 114 CONG. REC. 30214–16, 90th Cong. 2d Sess., Oct. 9, 1968 (calendar day).

10. John W. McCormack (Mass.).

THE SPEAKER: The Chair does not recognize the gentleman at this time on a matter of personal privilege.

But the Chair will, after the pending matter, the reading of the Journal has been disposed of, recognize the gentleman if the gentleman seeks recognition.

Subsequently, the gentleman was recognized to raise a question of the privilege of the House.

Interruption of Member Holding the Floor

§ 23.2 A Member may not be deprived of the floor by another Member raising a question of personal privilege.

On May 17, 1946,⁽¹¹⁾ during the consideration of House Resolution 624, concerning further expenses for the House Committee on Un-American Activities, Mr. Sol Bloom, of New York, sought recognition for a question of personal privilege. In his response declining recognition to the Member for that purpose, the Speaker⁽¹²⁾ stated:

The gentleman from South Dakota has the floor. Unless he yields the Chair cannot recognize the gentleman.

11. 92 CONG. REC. 5216, 79th Cong. 2d Sess. For additional examples see 91 CONG. REC. 7221–25, 79th Cong. 1st Sess., July 5, 1945; 84 CONG. REC. 8467, 8468, 76th Cong. 1st Sess., June 30, 1939; and 80 CONG. REC. 3720, 74th Cong. 2d Sess., Mar. 13, 1936.

12. Sam Rayburn (Tex.).

§ 23.3 A Member may not rise to a question of personal privilege while another Member controls the time for debate even though the Member in control of the time may yield him time for debate on the merits of the proposition then pending.

On Apr. 8, 1937,⁽¹³⁾ during House debate on House Resolution 162, concerning an investigation of sitdown strikes, the following proceedings transpired:

MR. [EDWARD E.] COX [of Georgia]: . . . Mr. Speaker, I yield 30 seconds to the gentleman from Michigan [Mr. (Frank E.) Hook].

MR. HOOK: Mr. Speaker, I rise to a question of personal privilege based on

the remarks of the last speaker, and ask for 1 hour.

MR. COX: Mr. Speaker, I did not yield to the gentleman for that purpose.

MR. HOOK: Then, Mr. Speaker, I ask unanimous consent that I be allowed to proceed for 5 minutes.

THE SPEAKER PRO TEMPORE:⁽¹⁴⁾ Is there objection to the request of the gentleman from Michigan?

MR. [CHARLES A.] PLUMLEY [of Vermont]: Mr. Speaker, I object.

MR. HOOK: Mr. Speaker, I then insist upon my right to rise to a question of personal privilege. The gentleman threatened us.

THE SPEAKER PRO TEMPORE: The gentleman from Michigan cannot take the gentleman from Georgia off the floor by raising a question of personal privilege.

E. BASIS OF QUESTIONS OF PERSONAL PRIVILEGE

§ 24. Introductory; General Opinion or Criticism

Rule IX defines questions of personal privilege as those that affect the "rights, reputation, and conduct" of individual Members in their representative capacity.⁽¹⁵⁾ To give rise to a question of per-

sonal privilege, a criticism must reflect directly on the Member's integrity or reputation.⁽¹⁶⁾ Mere statements of opinion about or general criticism of his voting record or views do not constitute adequate grounds for a question of personal privilege.⁽¹⁷⁾

It is not in order by way of a point of personal privilege or by raising a question of the privilege

13. 81 CONG. REC. 3295, 75th Cong. 1st Sess.

14. Fred M. Vinson (Ky.).

15. *House Rules and Manual* §661 (1973).

16. § 24.1, *infra*.

17. § 24.2, *infra*.

of the House to collaterally attack an order previously adopted by the House.⁽¹⁸⁾ Similarly, the refusal of Members in charge of time for general debate on a bill to allot time therefor to a Member does not give such Member grounds for a question of personal privilege. Thus, in one instance,⁽¹⁹⁾ a Member claimed the floor for a question of personal privilege and proceeded to discuss the fact that the Member in charge of time for general debate on a bill had refused to assign him any time for that purpose. However, the Speaker⁽²⁰⁾ ruled that the Member's request for time could not be brought up by way of a question of personal privilege. Said the Speaker:

The rules provide that a Member may rise to a question of personal privilege where his rights, reputation, and conduct individually, in his representative capacity, is assailed or reflected upon. The Chair fails to see where the gentleman has presented a question of personal privilege which will bring himself within that rule. The rules provide for the conduct of the business of the House. . . .

. . . They provide the method of procedure. If this rule is adopted the gen-

tleman may, of course, appeal to those who have charge of the time for time, but there are 435 Members of the House, and the gentleman must appreciate, as the Chair does, that it is impossible for those gentlemen to yield to everyone. However, the Chair is very sure that opportunity will be afforded the gentleman sometime during the discussion of the bill to express his views.

The Chair fails to see where the gentleman has been denied any right that has not been denied to every Member of this House. The gentleman has his right of appeal to get time, as the Chair stated, if this rule is adopted. If the rule is not adopted and the bill is taken up, then the gentleman may proceed under the rules of the House. The Chair fails to see where the gentleman has raised a question of personal privilege.

Criticism of Member's Legislative Activity or Position

§ 24.1 Ordinarily, a Member may not rise to a question of personal privilege merely because there has been some criticism of his legislative activity. A question of personal privilege ordinarily involves a reflection on a Member's integrity or reputation. Thus, it was ruled that a Member could not rise to a question of personal privilege where he had been criticized merely for certain questionnaires he had distributed.

18. 114 CONG. REC. 30214, 30215, 90th Cong. 2d Sess. See §3.2, *supra*, for a detailed discussion of this precedent.

19. 79 CONG. REC. 5454, 5455, 74th Cong. 1st Sess., Apr. 11, 1935.

20. Joseph W. Byrns (Tenn.).

On June 18, 1936,⁽¹⁾ Mr. Kent E. Keller, of Illinois, offered as a matter involving a question of the privilege of the House a resolution deploring the allegedly unauthorized action taken by Mr. Thomas L. Blanton, of Texas, whereby he addressed questionnaires to school teachers in the District of Columbia requesting their opinions on communism. A point of order was raised by Mr. Claude A. Fuller, of Arkansas, asserting that the offered resolution did not involve a question of the privilege of the House. When the Chair sustained the point of order, Mr. Blanton sought to address the House on the ground that the resolution gave rise to a point of personal privilege:

MR. BLANTON: Mr. Speaker, since this ridiculous resolution has been read into the Record and will go in the press, and every fair-minded man in the House knows that votes for it here would be negligible and it could not be passed, I think it is only fair that the House should give me 5 minutes, and I ask unanimous consent to proceed for 5 minutes.

THE SPEAKER: Is there objection?

Mr. [Martin J.] Kennedy of New York: I object.

1. 80 CONG. REC. 9947, 9948, 74th Cong. 2d Sess. See also 86 CONG. REC. 11046-49, 11150-58, 76th Cong. 3d Sess., Aug. 27, 1940; and 79 CONG. REC. 494, 495, 74th Cong. 1st Sess., Jan. 16, 1935.

MR. BLANTON: Mr. Speaker, of course, one objection can prevent it, so I rise to a question of personal privilege.

THE SPEAKER:⁽²⁾ The gentleman will state it.

MR. BLANTON: I submit the last four clauses of the resolution just read, which was filed here by the gentleman from Illinois [Mr. Keller], without any notice whatever to me, at a time when I was in a Senate conference, working for this House, and did get an agreement with the Senate conferees on an important appropriation bill, will be used by "red" newspapers as a reflection upon me, although, as a matter of fact, it cannot hurt me or my good name in any way. I had no notice that this resolution was to be offered, and I was called out of that conference with Senate managers after the resolution had been sent to the Clerk's desk for consideration. While under a strict interpretation of the rules I realize full well that because the resolution does not reflect upon me, and will not hurt me, it does not constitute privilege, but I feel that I should raise the question to show what a great injustice was done me by it being presented. I submit that, as a matter of personal privilege, I should have a right to be heard.

THE SPEAKER: The Chair stated that in his opinion the subject matter stated in the resolution was not of such nature as reflected upon the gentleman from Texas.

The Chair is of the opinion that the matter stated by the gentleman from Texas does not constitute a question of personal privilege.

§ 24.2 The mere statement of opinion by a group of news-

2. William B. Bankhead (Ala.).

paper correspondents with reference to a Member's record or position in the House does not present a question of personal privilege.

On Mar. 27, 1939,⁽³⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of personal privilege, called the attention of the House to a magazine article in which it was stated that a poll of newsmen revealed their opinion that Mr. Hoffman was among the least useful Members of the House. In ruling on the question of personal privilege, the Speaker⁽⁴⁾ made the following statement:

The gentleman from Michigan rises to A question of personal privilege, which question is based upon the language he has just read from a paper he held in his hand. It seems that the gravamen of the matter relates to a newspaper poll that was purported to have been made with reference to the usefulness, standing, and so forth, of Members of the House of Representatives.

Of course, there are sometimes border-line cases in which it is rather difficult for the Chair to reach, for himself, a definite conclusion on the question of personal privilege, but the Chair thinks the rule should again be stated because this question is frequently stated.

3. 84 CONG. REC. 3361, 3362, 76th Cong. 1st Sess.

4. William B. Bankhead (Ala.).

Rule IX provides:

QUESTIONS OF PRIVILEGE

Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members, individually, in their representative capacity only; and shall have precedence of all other questions except motions to adjourn.

The gentleman from Michigan takes the position that this newspaper criticism, if the Chair may call it that, states a question of personal privilege. While the Chair is inclined to give the greatest elasticity and liberality to questions of personal privilege when raised, the Chair is of the opinion that in this particular instance the mere statement of opinion by a group of newspaper correspondents with reference to a Member's record or position in the House of Representatives does not present in fact, or under the rules of the House, a matter of personal privilege.

Therefore, the Chair is constrained to rule that the gentleman has not presented a question of personal privilege.

§ 24.3 A newspaper statement asserting that all House Members from a specific delegation support a certain bill was held not to give rise to a question of personal privilege to a Member of such delegation opposed to the bill.

On Mar. 31, 1938,⁽⁵⁾ Mr. Michael J. Stack, of Pennsylvania,

5. 83 CONG. REC. 4473, 75th Cong. 3d Sess.

rising to a question of personal privilege, read a newspaper statement which asserted that it was understood that all members of the Philadelphia delegation favored an effective reorganization bill. In fact, the Member was uncommitted regarding such a bill. At the conclusion of the Member's statement of the question, the Speaker⁽⁶⁾ said:

The gentleman has very cleverly gained recognition to make a statement stating his attitude on the bill which is to come before the House, but the Chair is of the opinion the gentleman does not state a matter of personal privilege.

§ 24.4 A newspaper article alleging that a minority report filed by a Member had been written by employees of a political party was held not to involve a question of personal privilege.

On Mar. 30, 1939,⁽⁷⁾ Mr. Wallace E. Pierce, of New York, submitted as a question of personal privilege a statement from a newspaper article alleging that a minority report which Mr. Pierce had filed as a member of the Committee on the Judiciary had been written by several employees of the Republican National Com-

mittee. In his decision on the question, the Speaker⁽⁸⁾ stated:

. . . The Chair, of course, can well understand the indignation of any Member of the House at a newspaper article that appears to be absolutely unfair or critical of his conduct as a Member of the House, but on this question of personal privilege the Chair is of course compelled to follow the precedents of the House, very few of which were established by the present occupant of the Chair.

The Chair has read the newspaper article which the gentleman from New York has read, to see if under the precedents and under the philosophy of the rule, the gentleman would be entitled to present this matter as a question of personal privilege. The Chair, within the past few days, has upon several occasions read into the Record the rule affecting this question of personal privilege. There are several precedents upon this particular question of newspaper criticism. One of them is found in section 2712 of Hinds' Precedents, volume 3:

A newspaper article in the nature of criticism of a Member's acts in the House does not present a question of personal privilege.

That is the syllabus of the decision.

Another decision holds that a newspaper article criticizing Members generally involves no question of privilege.

Having recourse again to the precedents the Chair finds the following: "The fact that a Member is misrepresented in his acts or speech does not constitute a matter of personal privi-

6. William B. Bankhead (Ala.).

7. 84 CONG. REC. 3552-54, 76th Cong. 1st Sess.

8. William B. Bankhead (Ala.).

lege, nor does misrepresenting a Member's vote."

The Chair personally would be delighted to have the gentleman from New York given the opportunity to address himself to the membership of the House on the question presented by him. The Chair, however, is constrained to rule in this instance as well as all others according to the precedents of the House and therefore rules that the matter complained of does not, in the opinion of the Chair, constitute a matter of personal privilege.

§ 24.5 A newspaper article asserting that a Congressman's staff greeted a labor union delegation with copies of a pamphlet critical of the union and questioning the use of a Congressman's office as a distribution center for such material was held not to give rise to a question of personal privilege.

On Mar. 23, 1945,⁽⁹⁾ Mr. Clare E. Hoffman, of Michigan, presented as involving a question of personal privilege a newspaper article asserting that his office staff had greeted a CIO delegation with copies of "Join the CIO and help build a Soviet America," and questioning the use of a Congressman's office as a distribution center for such material. After the Member's presentation of the ob-

jectionable article the Speaker⁽¹⁰⁾ in his ruling on the question stated:

What the gentleman has read so far is hardly sufficient to entitle the gentleman to recognition on a question of personal privilege.

§ 24.6 Language in a newspaper stating that a Member was "very generous with government money," and that he had introduced bills which would cost the government \$125 billion, was held not to give rise to a question of personal privilege.

On Jan. 30, 1950,⁽¹¹⁾ Mr. John E. Rankin, of Mississippi, submitted as involving the question of personal privilege a newspaper article which stated in part that "Representative Rankin is very generous—with Government money," and declaring that he had introduced bills which would cost the government \$125 billion. The Speaker⁽¹²⁾ ruled that the remarks referred to did not involve a question of personal privilege. However, the Member was granted recognition for one minute to answer the allegations.

10. Sam Rayburn (Tex.).

11. 96 CONG. REC. 1093, 81st Cong. 2d Sess.

12. Sam Rayburn (Tex.).

9. 91 CONG. REC. 2665, 79th Cong. 1st Sess.

§ 25. Charges Before a Governmental Agency or Committee

Communist Party Affiliation

§ 25.1 Testimony by a government witness before a government agency charging a Member of the House as being a Communist gave rise to a question of personal privilege.

On Oct. 18, 1951,⁽¹³⁾ Mr. Franck R. Havenner, of California, rising to a question of personal privilege, read, from the transcript of deportation hearing proceedings, certain testimony by a government witness in which he [Havenner] was identified as a former member of the Communist Party. Upon hearing the objectionable matter, the Speaker⁽¹⁴⁾ ruled that the transcript gave rise to a question of personal privilege.

Alteration of Official Transcript

§ 25.2 A statement before a Senate committee which challenged the integrity of an official transcript of a hearing before a committee

13. 97 CONG. REC. 13483, 82d Cong. 1st Sess.

14. Sam Rayburn (Tex.).

of the House, thus impugning the integrity of those Members responsible for its preparation, gave rise to a question of personal privilege.

On May 21, 1959,⁽¹⁵⁾ Mr. Clarence Cannon, of Missouri, presented as involving a question of personal privilege a statement made before a Senate committee inferring that he had provided the committee with an altered transcript of a hearing held before a committee of the House. Thereupon, the Speaker⁽¹⁶⁾ recognized Mr. Cannon on a question of personal privilege.

§ 26. Charges by Fellow Member

Charges Involving Unnamed Members

§ 26.1 A statement on the floor by the Majority Leader "there is nothing to stop a man from making a damn fool of himself if he wants to" which was carried in the press as referring to a particular Member, gave rise to

15. 105 CONG. REC. 8868, 86th Cong. 1st Sess. See also 105 CONG. REC. 11587, 11588, 86th Cong. 1st Sess., June 23, 1959.

16. Sam Rayburn (Tex.).

a question of personal privilege.

On Mar. 19, 1945,⁽¹⁷⁾ Mr. Earl Wilson, of Indiana, rose to a question of privilege:

THE SPEAKER:⁽¹⁸⁾ For what purpose does the gentleman from Indiana rise?

MR. WILSON: Mr. Speaker, I rise to a point of personal privilege.

THE SPEAKER: The gentleman will state the ground for the question of personal privilege.

MR. WILSON: Mr. Speaker, the ground on which I make my request is the report which has gone all over the land through the press, leaving the inference that the distinguished majority leader referred to me in his remarks that there is nothing to stop a man making a damn fool of himself if he wants to.

Also, Mr. Speaker, the concluding sentence in which the majority leader is quoted as saying, now that it has served its purpose, he agrees to erase his remarks from the Record.

THE SPEAKER: If the gentleman from Indiana is certain that the gentleman from Massachusetts was referring to him, the Chair thinks he has a right to proceed on the question of personal privilege.

The Chair recognizes the gentleman from Indiana.

§ 26.2 Statements in the press that a Member had said other Members were giving

17. 91 CONG. REC. 2415, 2416, 79th Cong. 1st Sess.

18. Sam Rayburn (Tex.).

atomic secrets to the enemy while under the influence of liquor, which the Member denied having made, gave rise to a question of personal privilege.

On May 5, 1952,⁽¹⁹⁾ Mr. Edwin Arthur Hall, of New York, presented as involving a question of personal privilege several newspaper articles in which he was attributed as a source of the statement that other Members "were in all probability giving away atomic secrets to the enemy while under the influence of liquor." There ensued some discussion as to the validity of the question of personal privilege, during the course of which Mr. Hall denied having made the statement. The Speaker⁽²⁰⁾ then recognized him to debate the question of personal privilege.

Improper Political Influence

§ 26.3 A newspaper article which stated that one Member had involved the name of another Member as secretary of a corporation, reported to be a party to a government contract in relation to which "gross political interference

19. 98 CONG. REC. 4787, 4788, 82d Cong. 2d Sess.

20. Sam Rayburn (Tex.).

and influence” were alleged, gave rise to a question of personal privilege.

On July 16, 1958,⁽¹⁾ Mr. Perkins Bass, of New Hampshire, rose to a question of personal privilege and was recognized to reply to a newspaper article which stated that Mr. Oren Harris, of Arkansas, had involved the name of Mr. Bass as secretary of a corporation reported to be a party to a government contract in relation to which “gross political interference and influence were alleged.”

Abuse of Power

§ 26.4 A Member’s press release charging another Member with an abuse of personal power and of sponsoring a political smear was held to give rise to a question of personal privilege.

On Mar. 30, 1953,⁽²⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of personal privilege, called the attention of the House to a press release distributed by another Member in which he [Mr. Hoffman] was charged with a disgraceful abuse of personal power and accused of sponsoring a polit-

ical smear show. In ruling on the question of personal privilege, the Speaker⁽³⁾ stated:

The Chair has read the statement of the gentleman from Michigan [Mr. Hoffman], and upon examination the Chair feels that the words “disgraceful abuse of personal power,” and also where it is stated that “political smear show” justify the establishment of the point made by the gentleman.

The Chair recognizes the gentleman for one hour.

Traitorous Acts

§ 26.5 A Member was recognized on a question of personal privilege to answer a newspaper article which purportedly quoted him as implying that three Members of the House may have been guilty of traitorous acts.

On Jan. 28, 1944,⁽⁴⁾ Mr. Samuel A. Weiss, of Pennsylvania, rose and presented as a matter of personal privilege a newspaper article in which he was quoted as saying “if the grand jury that indicted thirty for traitorous acts recently had gone another step they would have indicted three Members of Congress.” At the conclusion of the Member’s statement of the question, the Speaker pro tempore⁽⁵⁾ stated:

1. 104 CONG. REC. 13989, 85th Cong. 2d Sess.
2. 99 CONG. REC. 2468, 2469, 83d Cong. 1st Sess.

3. Joseph W. Martin, Jr. (Mass.).
4. 90 CONG. REC. 876, 877, 78th Cong. 2d Sess.
5. John W. McCormack (Mass.).

The Chair has read the news item referred to by the gentleman from Pennsylvania [Mr. Weiss]. The Chair feels it raises a matter of personal privilege.

The gentleman from Pennsylvania is recognized.

§ 26.6 A newspaper statement quoting a Member of the House as saying that a colleague was a “pimp of Joe Stalin” gave rise to a question of personal privilege.

On Jan. 13, 1949,⁽⁶⁾ Mr. Clare E. Hoffman, of Michigan, rose to a question of personal privilege to call attention to a newspaper that purported to quote another Member of the House as saying that Mr. Hoffman was a “pimp of Joe Stalin.” At the conclusion of Mr. Hoffman’s preliminary statement, the Speaker⁽⁷⁾ said:

The Chair believes the gentleman from Michigan has stated grounds for addressing the House on a question of personal privilege. The gentleman from Michigan is recognized.

Impugning Veracity

§ 26.7 An article in a newspaper quoting a Member of the House as “issuing the direct lie charge” to another Member was held to present

6. 95 CONG. REC. 266, 81st Cong. 1st Sess.

7. Sam Rayburn (Tex.).

a question of personal privilege.

On Mar. 4, 1942,⁽⁸⁾ Mr. Martin Dies, Jr., of Texas, rising to a question of personal privilege, read from a newspaper article which quoted Mr. Thomas H. Eliot, of Massachusetts, as “issuing the direct lie charge” to Mr. Dies. The Speaker⁽⁹⁾ granted Mr. Dies recognition on a question of personal privilege

§ 26.8 A press release issued by a Member containing allegations impugning the motives and veracity of another Member gave rise to a question of personal privilege.

On July 28, 1970,⁽¹⁰⁾ Mr. Augustus F. Hawkins, of California, rose to a question of personal privilege:

MR. HAWKINS: Mr. Speaker, I rise to a question of personal privilege.

THE SPEAKER: ⁽¹¹⁾ The gentleman will state his question of personal privilege.

Mr. HAWKINS: Mr. Speaker, the gentleman from Illinois (Mr. Crane), in a recent press release which I send to the desk, has made certain allegations with respect to the additional views which I filed to accompany the report of the Select Committee To Investigate

8. 88 CONG. REC. 1920, 77th Cong. 2d Sess.

9. Sam Rayburn (Tex.).

10. 116 CONG. REC. 26002, 91st Cong. 2d Sess.

11. John W. McCormack (Mass.).

U.S. Military Involvement in South-east Asia. His allegations include charges which directly impugn my motives and veracity in submitting those additional views. I therefore rise to a question of personal privilege to respond to the statement of the gentleman from Illinois.

THE SPEAKER: The Chair has examined the press release sent to the desk by the gentleman from California (Mr. Hawkins), and the Chair is of the opinion that the gentleman from California has stated a question of personal privilege under rule IX of the rules of the House.

The gentleman from California (Mr. Hawkins) is recognized.

§ 27. Words Uttered in Debate; Charges Inserted in the Record

Floor Debate as Basis for Privilege

§ 27.1 A question of personal privilege may not be based upon language uttered upon the floor of the House in debate, the remedy being the demand that the objectionable words be taken down when spoken.

This precedent was occasioned during certain House proceedings on Feb. 6, 1950.⁽¹²⁾

12. 96 CONG. REC. 1514, 81st Cong. 2d Sess. See §11, *supra*, for a discussion of this precedent.

Remarks Made Under Leave to Revise and Extend

§ 27.2 Although a question of personal privilege may not be raised to words uttered in debate at the time, such a question may be based on objectionable remarks inserted by a Member in his speech under leave to revise and extend his remarks.

On June 24, 1937,⁽¹³⁾ Mr. Clare E. Hoffman, of Michigan, rose to question of personal privilege, stating as the grounds for his action not only certain statements made by a Member during House debate, but also a statement inserted in the Record of the same day by another Member under leave to revise and extend his remarks. In his ruling granting recognition to Mr. Hoffman, the Speaker⁽¹⁴⁾ made the following clarifying statement:

THE SPEAKER: The gentleman from Michigan [Mr. Hoffman] has presented a question of personal privilege, based upon two propositions. The first is to language inserted in the Record purported to have been uttered by the gentleman from Texas [Mr. Maverick], which language appears on page 6162

13. 81 CONG. REC. 6309, 6310, 75th Cong. 1st Sess. For an additional illustration see 92 CONG. REC. 5000, 79th Cong. 21 Sess., May 14, 1946.

14. William B. Bankhead (Ala.).

of the Record of June 22, which the gentleman from Michigan [Mr. Hoffman] has quoted.

The rule is—and it has been sustained and supported by the practice and precedents for many years—when offensive language is uttered upon the floor by a Member reflecting in anywise on a fellow Member, or language is uttered to which the offending Member desires to take exception, it is the duty of such Member instantly to exercise his privilege and demand that the offending words be taken down. This would give the House an opportunity to pass judgment upon whether the language should be retained in the Record, expunged, or other action taken.

By confession, the gentleman from Michigan did not avail himself of that opportunity, explaining he did not do so probably because he was temporarily absent from the floor when the gentleman from Texas used said language. Under such circumstances, of course, the absence of the Member from the floor would be no justification for him to be made an exception to the rule. It is to be assumed that he is on the floor of the House at all times during the session of the House.

The Chair is therefore of the opinion that on that point of personal privilege the gentleman from Michigan [Mr. Hoffman] is not entitled to the floor on a question of personal privilege under the rules and practices of the House.

. . .

The Chair stated there are two grounds upon which the gentleman from Michigan [Mr. Hoffman] bases his question of personal privilege. The second ground is that on page 6161 of the

Record of the same date the gentleman from Illinois [Mr. Sabath] made certain statements, as published in the Record, of which the gentleman from Michigan [Mr. Hoffman] complains.

If, as a matter of fact, the gentleman from Illinois inserted in the Record matters not actually stated by him upon the floor at the time which gave offense to the gentleman from Michigan, it was then the privilege of the gentleman from Michigan to raise that question, as he has now raised it, as a matter of personal privilege when his attention was called to the offending language.

Strike-breaking Activities

§ 27.3 A letter inserted in the Congressional Record by a Senator alleging that a Member was gathering arms and assembling a private army to march against workers on strike was held to give rise to a question of personal privilege.

On Apr. 11, 1938,⁽¹⁵⁾ Mr. Clare E. Hoffman, of Michigan, presented as involving a question of personal privilege a letter inserted in the *Congressional Record* by Senator Alben W. Barkley, of Kentucky, which contained the following statement:

When men like Congressman Clare E. Hoffman, of Michigan, openly boast

15. 83 CONG. REC. 5235, 75th Cong. 3d Sess.

that they will assemble a strike-breaking private arsenal and private army to march against workers in this country, it seems to me that lovers of democracy and friends of workingmen must no longer remain silent.

In his ruling granting recognition to the Member, the Speaker⁽¹⁶⁾ said:

The gentleman from Michigan rises to a question of personal privilege based upon language he has already quoted and which will appear in the Record, as taken from the Appendix of the Congressional Record, page 1256.

Of course, the question of whether or not a matter constitutes a basis for rising to address the House on a question of personal privilege under the rules is in many instances in what may be called the twilight zone of parliamentary discretion on the part of the Speaker, but the Chair has read the quotation to which the gentleman from Michigan refers, and the Chair is of the opinion that, at least by liberal construction of the rights of Members, which the Chair is always disposed to grant, the gentleman from Michigan is within his rights in rising to a question of personal privilege, because the alleged language might bring into question the rights, reputation, and conduct of a Member of the House.

Therefore, the Chair recognizes the gentleman from Michigan on a question of privilege.

Placing "Scurrilous" Matter in the Record

§ 27.4 A statement by a Member in his extension of re-

16. William B. Bankhead (Ala.).

marks that another Member had placed in the Record "scurrilous" matter was held to give grounds for a question of personal privilege.

On Aug. 27, 1940,⁽¹⁷⁾ Mr. Jacob Thorkelson, of Montana, rising to a question of personal privilege, read a statement inserted in the *Congressional Record* by Mr. Adolph J. Sabath, of Illinois, under an extension of remarks, which accused him of "placing 210 full pages of scurrilous matter" in the Record. Protracted debate on the question ensued, at the conclusion of which the Speaker,⁽¹⁸⁾ on hearing objection to a unanimous-consent request of Mr. Sabath that the remarks be expunged from the Record, recognized Mr. Thorkelson on a question of personal privilege.

Promoting Religious Strife

§ 27.5 An insertion in the Record in an extension of remarks of a charge that a Member seeks to promote religious strife, gave rise to a question of personal privilege.

On Apr. 7, 1943,⁽¹⁹⁾ Mr. John E. Rankin, of Mississippi, rose and

17. 86 CONG. REC. 11046-49, 11150-58, 76th Cong. 3d Sess.

18. William B. Bankhead (Ala.).

19. 89 CONG. REC. 3062, 78th Cong. 1st Sess.

proposed as a question of personal privilege to call attention to certain language inserted in the *Congressional Record* by Mr. Emanuel Celler, of New York, in an extension of remarks charging him (Mr. Rankin) with promoting religious strife, demonstrating thereby his contempt for the spirit and traditions of America. Upon hearing the objectionable remarks the Speaker⁽²⁰⁾ said:

. . . The Chair believes that the language not being spoken on the floor and no recourse being had at that time, is a reflection on the gentleman from Mississippi [Mr. Rankin] and the Chair recognizes the gentleman for 1 hour.

Criticism of House Members by a Senator

§ 27.6 Insertion in the Record of Senate remarks charging a chairman of a House committee with making a “disgraceful effort to cram down on a number of ‘pork barrel’ provisions” by insisting on a meritorious provision in an omnibus bill to get votes for the other items, gave rise to a question of personal privilege.

On Mar. 3, 1942,⁽¹⁾ Mr. Joseph J. Mansfield, of Texas, on a ques-

tion of personal privilege, called the attention of the House to Senate remarks appearing in the *Congressional Record* implying that as Chairman of the Committee on Naval Affairs he had engaged in a “disgraceful effort to cram down a number of ‘pork barrel’ provisions” in a pending river and harbor bill by including in it a meritorious proposal, for purposes of obtaining votes for the other items. In ruling on the question of personal privilege, the Speaker⁽²⁾ stated:

The Chair is convinced that the question is a very close one, but the Chair is going to hear the gentleman from Texas.

§ 27.7 A Senator’s action in inserting in the Record certain roll call votes of the House together with critical comment and an editorial critical of the House gave rise to a question of personal privilege, where the inserted material identified individual Members and their votes.

On July 12, 1956,⁽³⁾ the Speaker⁽⁴⁾ recognized Mr. Clare E. Hoffman, of Michigan, on a question of personal privilege to call the attention of the House to a news-

20. Sam Rayburn (Tex.).

1. 88 CONG. REC. 1880, 77th Cong. 2d Sess.

2. Sam Rayburn (Tex.).

3. 102 CONG. REC. 12522, 12523, 84th Cong. 2d Sess.

4. Sam Rayburn (Tex.).

paper editorial and certain remarks by Senator Hubert Humphrey, of Minnesota, in the *Congressional Record*, which described House action on a particular bill as "cynical politicking" and which alleged that the House was guilty of "shabby conduct." The material also gave rise to a question of the privilege of the House.

§ 27.8 A newspaper column in which a bill to exempt a Member's educational foundation from tax laws was described as coming "as near to making suckers out of all the rest of us as any piece of tax legislation Congress ever enacted," reprinted in the Appendix of the Record at the request of a Senator, gave rise to a question of personal privilege in the House.

On Jan. 28, 1958,⁽⁵⁾ Mr. Clarence Cannon, of Missouri, presented as involving a question of personal privilege a newspaper column inserted in the *Congressional Record* by Senator Albert A. Gore, of Tennessee. The column referred to a bill to exempt Mr. Cannon's educational foundation from the tax laws in the following language:

. . . "It came as near to making suckers out of all the rest of us as any

5. 104 CONG. REC. 1202, 85th Cong. 2d Sess.

piece of tax legislation Congress ever enacted."

In his decision granting recognition to the Member, the Speaker⁽⁶⁾ said:

The Chair feels that under the circumstances the charges and allusions made in the article just read by the gentleman from Missouri are a reflection on him to such an extent that he may claim the right of personal privilege.

§ 27.9 A Senator's accusation, reported in the Record, charging that a Member of the House inserted in the Record an intemperate, vituperative, and libelous attack on an individual, was held to give rise to a question of personal privilege.

On June 30, 1939,⁽⁷⁾ Mr. Clare E. Hoffman, of Michigan, rose to a question of personal privilege to call attention to a statement made in the Senate by Senator Joel Bennett Clark, of Missouri, charging Mr. Hoffman with having inserted in the Record an intemperate, vituperative, and libelous attack on an individual. The Speaker⁽⁸⁾ then recognized Mr.

6. Sam Rayburn (Tex.).

7. 84 CONG. REC. 8468, 8469, 76th Cong. 1st Sess.

8. William B. Bankhead (Ala.).

Hoffman on a question of personal privilege.

Charges Impugning Veracity

§ 27.10 A statement in an extension of remarks of a Member asserting that another Member had brought dishonor and discredit on his office by his use of scurrilous language and alleging that he had distorted the words of the President was held to present a question of personal privilege.

On June 19, 1940,⁽⁹⁾ Mr. Clare E. Hoffman, of Michigan, on a question of personal privilege, called the attention of the House to certain language (set out below) inserted in the *Congressional Record* by Mr. Donald L. O'Toole, of New York, under permission to extend his remarks:

It is not enough that the Member from Michigan should bring dishonor and discredit upon the high position that he occupies by his scurrilous language in regard to the highest office in the land, but he also feels compelled to distort the words of the President.

Upon hearing the objectionable remarks, the Speaker⁽¹⁰⁾ recog-

nized the Member on a question of personal privilege.

§ 27.11 A Member's insertion in the Record of a statement charging that another Member echoed in the House a "typical fascist lie," was held to give rise to a question of personal privilege.

On Apr. 25, 1944,⁽¹¹⁾ Mr. Clare E. Hoffman, of Michigan, presented as involving a question of personal privilege a statement inserted in the *Congressional Record* by Mr. Herman P. Eberharter, of Pennsylvania, alleging that Mr. Hoffman had echoed in the House a "typical fascist lie." In his ruling granting recognition to Mr. Hoffman, the Speaker⁽¹²⁾ observed:

The Chair thinks the statement in the Record which makes charges against the gentleman from Michigan amounts to a question of personal privilege.

§ 27.12 A letter printed in the Congressional Record Appendix, in which certain statements made by a Member were said to be untruthful, gave rise to a question of personal privilege.

9. 86 CONG. REC. 8642, 76th Cong. 3d Sess.

10. William B. Bankhead (Ala.).

11. 90 CONG. REC. 3696, 78th Cong. 2d Sess.

12. Sam Rayburn (Tex.).

On June 18, 1958,⁽¹³⁾ the Speaker⁽¹⁴⁾ recognized Mr. Clarence Cannon, of Missouri, on a question of personal privilege after Mr. Cannon directed attention to a letter appearing in the Appendix to the *Congressional Record* which described certain material attributed to him as a “lie.”

§ 28. Published Charges of Impropriety

“Vote Selling”

§ 28.1 A newspaper article accusing a Member of selling his vote gave rise to a question of personal privilege.

On July 24, 1957,⁽¹⁵⁾ Mr. H. Carl Andersen, of Minnesota, on a question of personal privilege, called the attention of the House to a newspaper article which included allegations of his involvement in a conflict-of-interest case. After receipt of the objectionable articles, the Speaker⁽¹⁶⁾ stated:

The Chair has read the headline, to which the gentleman refers, and it does, in effect, accuse a Member of

Congress of selling his vote, and this is carried forward in the second paragraph.

The Chair thinks the gentleman has stated a question of personal privilege and therefore, recognizes the gentleman from Minnesota [Mr. H. Carl Andersen].

Implying Reprehensibility

§ 28.2 A newspaper article referring to a Member as “reprehensible” or “punk” gave rise to a question of personal privilege.

On Jan. 25, 1944,⁽¹⁷⁾ Mr. John E. Rankin, of Mississippi, rose to a question of personal privilege and was recognized to reply to a newspaper article in which he was referred to as “reprehensible” Rankin and “punk” Rankin.

Questionable Business Associations

§ 28.3 Newspaper articles accusing a Member of promoting and participating in an organization being investigated by a Senate investigating committee gave rise to a question of personal privilege.

On July 8, 1946,⁽¹⁸⁾ Mr. Andrew J. May, of Kentucky, presented as

13. 104 CONG. REC. 11609, 85th Cong. 2d Sess.

14. Sam Rayburn (Tex.).1

15. 103 CONG. REC. 12583, 85th Cong. 1st Sess.

16. Sam Rayburn (Tex.).

17. 90 CONG. REC. 751, 78th Cong. 2d Sess.

18. 92 CONG. REC. 8391, 79th Cong. 2d Sess.

involving a question of personal privilege certain newspaper articles which were submitted to the Speaker's desk. Thereupon, the Speaker⁽¹⁹⁾ stated as follows:

THE SPEAKER: The Chair has looked over these papers and headlines, as well as the body of the articles. One headline states "Documents show May had financial stake in Garsson's empire."

The article further states:

Documentary evidence that Representative May, Democrat, of Kentucky, chairman of the House Military Committee, had a financial interest in the Illinois munitions empire he is said to have promoted at the War Department and his vehement denial featured explosive development yesterday before the Senate War Investigation Committee.

The Chair thinks that these entitle the gentleman to the question of personal privilege in his Representative capacity, therefore, it recognizes the gentleman from Kentucky [Mr. May].

Ethnic Slur

§ 28.4 On one occasion, a Member took the floor for a one-minute speech to respond to a newspaper article which included a reference to him as "one of the few Italian American undesirables in Congress."

19. Sam Rayburn (Tex.).

This precedent was occasioned by certain House proceedings on Nov. 22, 1967.⁽²⁰⁾

§ 29. Published Charges of Illegality

Unspecified Illegal Acts

§ 29.1 A newspaper article charging that a Member did something illegal in his representative capacity gave rise to a question of personal privilege.

On Jan. 18, 1954,⁽¹⁾ the Chair recognized Mr. Clare E. Hoffman, of Michigan:

MR. HOFFMAN of Michigan: Mr. Speaker, I rise to a question of personal privilege. I have previously submitted the question to the Speaker.

THE SPEAKER:⁽²⁾ The Chair may say that the gentleman from Michigan [Mr. Hoffman] has very kindly given him the opportunity of looking over the question of personal privilege. In one instance it is stated that the gentleman did something illegal in his representative capacity, so therefore the gentleman qualifies to present his question of personal privilege.

20. 113 CONG. REC. 33693, 90th Cong. 1st Sess. See § 22.4, *supra*, for a detailed discussion of this precedent.

1. 100 CONG. REC. 388, 83d Cong. 2d Sess.

2. Joseph W. Martin, Jr. (Mass.).

*Forgery***§ 29.2 A statement in a newspaper accusing a Member of forgery constituted sufficient grounds for raising a question of personal privilege.**

On June 8, 1950,⁽³⁾ Mr. Clare E. Hoffman, of Michigan, offered as a question of personal privilege a statement appearing in a newspaper alleging that the Member had "stooped to using outright forgery in a strikebreaking attempt." In his ruling granting recognition, the Speaker⁽⁴⁾ stated that sufficient grounds to constitute a question of personal privilege had been stated.

*Receipt of Illegal Fees***§ 29.3 A newspaper article charging that a Member of the House received an illegal fee in a matter connected with his work as a Member was held to give rise to a question of personal privilege.**

On June 15, 1950,⁽⁵⁾ Mr. John S. Wood, of Georgia, rose to a question of privilege to call atten-

3. 96 CONG. REC. 8331, 81st Cong. 2d Sess.

4. Sam Rayburn (Tex.).

5. 96 CONG. REC. 8653, 81st Cong. 2d Sess.

tion to a newspaper article charging that he had received an illegal fee in a matter connected with his work as a Member. After examining the article, the Speaker⁽⁶⁾ recognized Mr. Wood to proceed on a question of personal privilege.

*Tax Irregularities***§ 29.4 A newspaper article charging a Member with involvement in a tax scandal gave rise to a question of personal privilege.**

On Feb. 4, 1954,⁽⁷⁾ Mr. Emanuel Celler, of New York, sought the floor on a question of personal privilege, and read to the Chair headlines from several newspaper articles charging him (Mr. Celler) with involvement in a tax scandal. After the presentation of the objectionable articles to the Chair, the Speaker pro tempore⁽⁸⁾ stated:

The Chair has examined the headlines and the newspaper articles and believes the gentleman has stated a question of personal privilege. The gentleman is recognized.

*Criminal Conspiracy, Perjury, and Tax Evasion***§ 29.5 Newspaper accounts of a grand jury indictment of a**

6. Sam Rayburn (Tex.).

7. 100 CONG. REC. 1353, 1354, 83d Cong. 2d Sess.

8. Charles A. Halleck (Ind.).

Member for alleged criminal conspiracy, perjury, and tax evasion gave rise to a question of personal privilege.

On Apr. 19, 1972,⁽⁹⁾ Mr. Cornelius E. Gallagher, of New Jersey, rising to a question of personal privilege, stated that he wished to answer charges stemming from published accounts of a grand jury indictment brought against him for alleged criminal conspiracy, perjury, and tax evasion. At the conclusion of his statement, the Speaker⁽¹⁰⁾ granted Mr. Gallagher recognition for one hour on a question of personal privilege.

Sedition

§ 29.6 Any pamphlet, newspaper, or document which accuses a Member of being seditious presents a question of personal privilege.

On Mar. 26, 1946,⁽¹¹⁾ Mr. Clare E. Hoffman, of Michigan, rose to a

9. 118 CONG. REC. 13491-97, 92d Cong. 2d Sess.

10. Carl Albert (Okla.).

11. 92 CONG. REC. 2624, 79th Cong. 2d Sess. For additional illustrations involving accusations of sedition, see 91 CONG. REC. 12456, 79th Cong. 1st Sess., Dec. 20, 1945; 90 CONG. REC. 2908, 78th Cong. 2d Sess., Mar. 22, 1944; 90 CONG. REC. 2519, 78th Cong. 2d Sess., Mar. 13, 1944; and

question of personal privilege and presented a publication in which he was accused of sedition. In ruling on the question, the Speaker⁽¹²⁾ said:

THE SPEAKER: . . . [T]he Chair states that any pamphlet or newspaper or document that accuses the gentleman from Michigan [Mr. Hoffman] of being seditious certainly presents a question of personal privilege.

The gentleman is recognized.

§ 30. Published Charges Involving Legislative Conduct

Misuse of Public Funds

§ 30.1 A newspaper article to the effect that certain union delegates "left for home determined to raise hell about the misuse of government funds" by a Member gave rise to a question of personal privilege.

On Feb. 22, 1945,⁽¹³⁾ Mr. Clare E. Hoffman, of Michigan, on a question of personal privilege, called the attention of the House to a newspaper article which stated that certain union delegates

90 CONG. REC. 816, 78th Cong. 2d Sess., Jan. 27, 1944.

12. Sam Rayburn (Tex.).

13. 91 CONG. REC. 1368, 79th Cong. 1st Sess.

from Mr. Hoffman's district left for home "determined to raise hell about [his] misuse of government funds." The Speaker pro tempore⁽¹⁴⁾ stated his belief that Mr. Hoffman had presented a question of personal privilege and recognized him for that purpose.

Deceptive Conduct

§ 30.2 An advertisement in a newspaper charging that a Member "sneaked" a permanent committee through the House gave rise to a question of personal privilege.

On Mar. 15, 1946,⁽¹⁵⁾ Mr. John E. Rankin, of Mississippi, claiming the floor on a question of personal privilege, read a newspaper advertisement charging that, "In the confusion of the first day of the 1945 Congress, Rankin sneaked over a permanent House Committee on Un-American Activities." In his ruling recognizing the Member on the question, the Speaker⁽¹⁶⁾ stated:

The Chair thinks that the gentleman states a question of personal privilege in that the paper charges that he sneaked something over on the House.

The gentleman is recognized.

14. John W. McCormack (Mass.).

15. 92 CONG. REC. 2328, 79th Cong. 2d Sess.

16. Sam Rayburn (Tex.).

Dereliction of Duties

§ 30.3 A newspaper editorial implying nonperformance by a Member of his representative duties in relation to the poor people of his constituency gave rise to a question of personal privilege.

On June 14, 1938,⁽¹⁷⁾ Mr. John J. Boylan, of New York, presented as involving a question of personal privilege a newspaper editorial which stated "Isn't it about time for the poor people of the 15th district of New York to ask themselves just whom Mr. Boylan represents. He surely doesn't represent them." After the editorial had been submitted to the Speaker⁽¹⁸⁾ for his inspection, he ruled:

The Chair finds in one of the marked paragraphs of the editorial an implication which the Chair thinks involves the gentleman's dignity, standing, and reputation as a Member of the House. The Chair recognizes the gentleman from New York on a question of personal privilege.

Confiscation of Evidence

§ 30.4 Newspaper headlines circulated through the mails indicating that a Member had confiscated evidence

17. 83 CONG. REC. 9234, 75th Cong. 3d Sess.

18. William B. Bankhead (Ala.).

needed to prosecute certain individuals was held to involve a question of personal privilege.

On Sept. 29, 1941,⁽¹⁹⁾ Mr. Hamilton Fish, Jr., of New York, rose to a question of personal privilege and sent to the desk extracts from certain newspapers. The following exchange then occurred:

THE SPEAKER:⁽²⁰⁾ The Chair sees here what seems to be the front page of some newspaper. but it is not identified here.

MR. FISH: It is PM, a newspaper in New York. The Chair can see it on the front of the page.

THE SPEAKER: Does this paper circulate through the mails?

MR. FISH: It does circulate through the mails, Mr. Speaker.

THE SPEAKER: In large headlines covering more than half of the front page appear these words:

Ham Fish snatches evidence wanted in U.S. Nazi hunt.

The Chair thinks the gentleman states a question of personal privilege.

Crippling War Controls

§ 30.5 During World War II, a newspaper article charging a Member with actions which could leave certain administrators helpless and which could cripple war controls

19. 87 CONG. REC. 7576, 77th Cong. 1st Sess.

20. Sam Rayburn (Tex.).

was held to give rise to a question of personal privilege.

On June 7, 1944,⁽¹⁾ Mr. Howard W. Smith, of Virginia, rose to a question of personal privilege and read from a newspaper article charging him with leading a "raid" in the House which could leave price stabilization administrators helpless to combat rising prices and which could cripple war controls. In his ruling on Mr. Smith's question of personal privilege, the Speaker⁽²⁾ stated:

The Chair is of the opinion that the language read is a sufficient reflection on the gentleman to raise the question of personal privilege, and the Chair will recognize the gentleman.

Conflicts of Interest

§ 30.6 A newspaper article alleging improper lobbying activities by a Member to preserve his financial interests in a relative's estate gave rise to a question of personal privilege.

On June 6, 1962,⁽³⁾ Mr. H. Carl Andersen, of Minnesota, rose to a question of privilege regarding a

1. 90 CONG. REC. 5460, 78th Cong. 2d Sess.

2. Sam Rayburn (Tex.).

3. 108 CONG. REC. 9792-97, 87th Cong. 2d Sess.

newspaper article which alleged improper lobbying activities on his part to preserve his own financial interests in his brother's estate. The Speaker⁽⁴⁾ then recognized Mr. Andersen on a question of personal privilege.

§ 30.7 A Member was recognized on a question of personal privilege following publication of a newspaper column implying that he had introduced legislation to repeal excise taxes on cars and trucks at a time when the clients of his law firm included a trucking firm.

On June 22, 1966,⁽⁵⁾ Mr. Charles E. Chamberlain, of Michigan, rose to a question of privilege to call attention to a newspaper column in which it was alleged that he had introduced legislation to repeal excise taxes on cars and trucks but failed to list the name of his law firm or its clients, including a trucking firm, in the Congressional Directory. After the Member's statement of the question, the Speaker⁽⁶⁾ recognized him on a question of personal privilege.

4. John W. McCormack (Mass.).

5. 112 CONG. REC. 13907, 13908, 89th Cong. 2d Sess.

6. John W. McCormack (Mass.).

Abuse of Powers or Rank

§ 30.8 A newspaper story to the effect that a Member sullied congressional honor and held a congressional hearing for the political purpose of influencing a local election gave rise to a question of personal privilege.

On July 20, 1953,⁽⁷⁾ Mr. Clare E. Hoffman, of Michigan, as a question of personal privilege, offered a newspaper editorial captioned "Representative Hoffman Sullies Congressional Honor," and which stated in part:

The immorality of holding a congressional hearing for the political purpose of influencing a local election gave off such a stench that the full committee apparently wanted no part of it.

The Speaker⁽⁸⁾ then ruled on the question, observing:

The gentleman does not have to proceed any further. He has stated a question of personal privilege and is recognized for 1 hour.

§ 30.9 A newspaper article to the effect that a committee chairman used a subcommittee for an improper purpose was held to give rise to a question of personal privilege.

7. 99 CONG. REC. 9242, 9243, 83d Cong. 1st Sess.

8. Joseph W. Martin, Jr. (Mass.).

On July 21, 1953,⁽⁹⁾ Mr. Clare E. Hoffman, of Michigan, rose on a question of personal privilege to call attention to a newspaper article which asserted that he had used a subcommittee which he had chaired to investigate the Air Force for refusing to award a contract to certain constituents. The Speaker⁽¹⁰⁾ was of the opinion that Mr. Hoffman had stated a question of personal privilege and recognized him for one hour.

§ 30.10 A newspaper editorial charging a Member with having no scruples about using the power which seniority had brought him for personal reprisals, and that he seemed unfit to govern, gave rise to a question of personal privilege.

On July 12, 1955,⁽¹¹⁾ Mr. Francis E. Walter, of Pennsylvania, claiming the floor on a question of personal privilege, read from a newspaper editorial which referred to him in the following language:

He seems to have no scruples about using the power which seniority has brought him as a member of the Judi-

ciary Committee to attempt personal reprisals against those whom he dislikes. . . .

A man with so little capacity for government himself seems scarcely fit for the governing of his countrymen.

After hearing the objectionable words, the Speaker⁽¹²⁾ stated that a question of personal privilege had been stated.

Improprieties as Committee Chairman

§ 30.11 A newspaper article charging that the chairman of a committee had “rammed through” a resolution pending before his committee gave rise to a question of personal privilege.

On July 16, 1962,⁽¹³⁾ Mr. Clarence Cannon, of Missouri, sought the floor for a question of personal privilege and proceeded to discuss a newspaper article charging that, as Chairman of the Committee on Appropriations, he had “rammed through” a resolution pending before his committee, without allowing debate and without explanation. After the submission of the article to the Chair, the Speaker⁽¹⁴⁾ recognized Mr. Can-

9. 99 CONG. REC. 9412-14, 83d Cong. 1st Sess.

10. Joseph W. Martin, Jr. (Mass.).

11. 101 CONG. REC. 10304, 84th Cong. 1st Sess.

12. Sam Rayburn (Tex.).

13. 108 CONG. REC. 13681, 13682, 87th Cong. 2d Sess.

14. John W. McCormack (Mass.).

non on a question of personal privilege.

§ 30.12 A newspaper editorial to the effect that a chairman of a committee so discredited himself by irresponsible actions that his committee voted to strip him of power to name subcommittees gave rise to a question of personal privilege.

On July 29, 1953,⁽¹⁵⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of personal privilege, read from a newspaper editorial which asserted that he, as Chairman of the Committee on Government Operations, had so discredited himself by irresponsible actions that the committee voted to strip him of power to name subcommittees. In his ruling granting the Member recognition on his question of personal privilege, the Speaker⁽¹⁶⁾ stated:

The Chair believes that the gentleman is justified in rising to a question of personal privilege on the ground that the matter to which he has referred is a reflection on him in his representative capacity.

§ 30.13 A statement in a magazine article asserting that a committee report contained

15. 99 CONG. REC. 10351, 83d Cong. 1st Sess.

16. Joseph W. Martin, Jr. (Mass.).

“stale lies and shabby calumnies” and inferring that the chairman of the committee failed to give minority members an opportunity to file minority views was held to present a question of personal privilege.

On Jan. 16, 1941,⁽¹⁷⁾ Mr. Howard W. Smith, of Virginia, presented as involving a question of privilege a magazine article which stated, “We do not have the space at this time to disentangle and answer all the stale lies and shabby calumnies rehashed in the final report of the Smith committee” and which alleged that the chairman of the committee had failed to give minority Members an opportunity to file minority views with the majority report. The Speaker⁽¹⁸⁾ then granted recognition to Mr. Smith on the question of personal privilege.

Avoidance of Committee Responsibilities

§ 30.14 A newspaper article to the effect that certain named Members of the House, who originally accused an individual of communistic affiliations, had ducked the com-

17. 87 CONG. REC. 158, 77th Cong. 1st Sess.

18. Sam Rayburn (Tex.).

mittee session in which the individual was cleared of such charges, was held to involve a question of personal privilege.

On Dec. 17, 1941,⁽¹⁹⁾ Mr. Everett M. Dirksen, of Illinois, rose and proposed as a question of personal privilege to call attention to a newspaper article which asserted that Mr. Dirksen and two other Members, who had originally accused David Lasser of communistic affiliations, had failed to attend the committee session when Lasser was cleared of the charges. In his ruling granting recognition to the Member, the Speaker⁽²⁰⁾ stated:

The rule covering this matter states:

Questions of privilege shall be, first, those affecting the rights of the House collectively, its safety, dignity, and the integrity of its proceedings; second, the rights, reputation, and conduct of Members individually in their representative capacity only.

The Chair thinks the gentleman states a question of personal privilege.

“Disgraceful” Conduct Reflecting on the House

§ 30.15 An insertion in a newspaper editorial that the conduct of a Member had been

19. 87 CONG. REC. 9913, 77th Cong. 1st Sess.

20. Sam Rayburn (Tex.).

so disgraceful as to reflect upon the membership of the House was held to be sufficient grounds for a question of personal privilege.

On Feb. 18, 1936,⁽¹⁾ Mr. Thomas L. Blanton, of Texas, on a question of personal privilege, called the attention of the House to a newspaper editorial which read in part:

The case of the people of Washington against Thomas L. Blanton is clearly posed. It is one of ignorant and prejudiced domination over local appropriations by a Congressman whose chief reliance in an argument seems to be epithets and fists. It is an important case for Congress as well as for the voteless Capital City. . . .

Indeed, the disgrace that such tactics bring upon the National Legislature—aside from their deplorable effects upon Washington—should result in a speedy transfer of Mr. Blanton.

The Speaker⁽²⁾ ruled that the editorial gave rise to a question of personal privilege, observing:

. . . Without entering into a discussion of the language which has been read by the gentleman from Texas, the Chair clearly thinks that the publication which charges that his conduct has been so disgraceful as to reflect upon the Members of the House entitles the gentleman to be heard on the question of privilege, and the Chair

1. 80 CONG. REC. 2320, 74th Cong. 2d Sess.

2. Joseph W. Byrns (Tenn.).

therefore recognizes the gentleman from Texas for 1 hour.

§ 30.16 A newspaper article charging that a Member of Congress had long disgraced himself by being “anti-United Nations, antiSemitic, anti-Negro, [and] antilabor” was held to involve a question of personal privilege.

On Jan. 8, 1945,⁽³⁾ Mr. John E. Rankin, of Mississippi, on a question of personal privilege, called the attention of the House to a newspaper article which repeated charges as described above. The Speaker⁽⁴⁾ then ruled:

The Chair believes that the gentleman from Mississippi has stated a question that involves the privileges of the House, it being an attack on his integrity as a Member of the House.

Improper Conduct in Agency Dealings

§ 30.17 A notation on the margin of a letter sent to the press to the effect that a Member had visited the office of the director of an agency while intoxicated and had “cussed out” the director’s clerks in such a manner that the director refused to

3. 91 CONG. REC. 107, 108, 79th Cong. 1st Sess.

4. Sam Rayburn (Tex.).

see him, was held to give rise to a question of personal privilege.

On Apr. 16, 1943,⁽⁵⁾ Mr. Paul Stewart, of Oklahoma, claimed the floor for a question of personal privilege and proceeded to discuss the contents of a notation on the margin of a letter sent to two newspapers which asserted that the Member had visited the office of the director of the Office of Price Administration “half drunk” and had “cussed out” the clerks there in such a manner that the director refused to see him. The Speaker⁽⁶⁾ then ruled that a question of personal privilege had been stated.

Abuse of Franking Privilege

§ 30.18 A newspaper article quoting a book containing an accusation that a Member permitted the use of his frank by one of questionable character gave rise to a question of personal privilege.

On Jan. 28, 1944,⁽⁷⁾ Mr. Clare E. Hoffman, of Michigan, on a question of personal privilege, called the attention of the House

5. 89 CONG. REC. 3471, 78th Cong. 1st Sess.

6. Sam Rayburn (Tex.).

7. 90 CONG. REC. 879, 78th Cong. 2d Sess.

to a newspaper article quoting a book which asserted that the Member had permitted the use of his frank by a man of questionable character. The Speaker pro tempore⁽⁸⁾ then recognized the Member on the question of personal privilege.

§ 31. Published Charges Involving Patriotism

Generalized Allegations and Innuendos

§ 31.1 A letter addressed to several newspapers and to Members of the House to the effect that in Russia a certain Congressman would have been liquidated long ago as an enemy of his country, gave rise to a question of personal privilege.

On July 3, 1947,⁽⁹⁾ Mr. Clare E. Hoffman, of Michigan, offered as involving a question of personal privilege a letter addressed to several newspapers and Members of the House which stated that, "In Russia, Congressman Hoffman would have been liquidated long ago as an enemy of his country." Upon hearing Mr. Hoffman's

statement, the Speaker⁽¹⁰⁾ recognized him for one hour.

§ 31.2 An article in a newspaper charging a Member of the House as being "the most un-American politician" was held to present a question of personal privilege.

On Jan. 29, 1941,⁽¹¹⁾ Mr. Clare E. Hoffman, of Michigan, on a question of personal privilege, called the attention of the House to a newspaper article in which he was identified as being "about the most un-American politician that ever went to Congress." The Speaker⁽¹²⁾ granted the Member recognition, saying:

The Chair thinks that the gentleman has stated a question of personal privilege. . . .

The Chair bases his opinion upon the words that the gentleman from Michigan refers to in this article, which refer to his un-Americanism. The Chair thinks those words present a charge which entitles the gentleman to rise to a question of personal privilege.

§ 31.3 Language in a newspaper asserting that a Member was among those who would divide the Nation and that he was a spokesman for

8. John W. McCormack (Mass.).

9. 93 CONG. REC. 8260, 80th Cong. 1st Sess.

10. Joseph W. Martin, Jr. (Mass.).

11. 87 CONG. REC. 348, 77th Cong. 1st Sess.

12. Sam Rayburn (Tex.).

the forces of betrayal was held to involve a question of personal privilege.

On June 3, 1943,⁽¹³⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of personal privilege, called the attention of the House to a newspaper article which stated:

Because labor recognizes this for what it is, the fatal policy of defeat and disaster, labor too has been the target of the slander of those who would divide our Nation in its hour of crisis and peril. The Hoffmans, the Dieses, the Rickenbackers, and the forces of betrayal for whom they speak, have conspired against and viciously attacked the millions of men and women who are today providing the weapons needed by the armed forces of democracy.

In his ruling on the question of personal privilege, the Speaker¹⁴ stated:

The Chair must assume some latitude. It is only by implication, the Chair may say, that this impugns the honor and integrity of the gentleman from Michigan [Mr. Hoffman]. It is a very close question. The Chair will recognize the gentleman, but he wants it understood that it is a very close question.

Fascist Sympathies

§ 31.4 Language in a publication accusing a Member of

13. 89 CONG. REC. 5294, 78th Cong. 1st Sess.

14. Sam Rayburn (Tex.).

being one of the most influential spokesmen for America's fascists, isolationists and labor baiters gave rise to a question of personal privilege.

On Jan. 13, 1948,⁽¹⁵⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of personal privilege, read the statement below from a news paper:

All during the war and since its end, Hoffman's record has been one of constant support for the crackpot fringe of native fascism. A report on his activities by the Friends of Democracy (vol. 3, No. 20) says:

America's Fascists, pro-Fascists, isolationists, and labor-baiters have long recognized Representative Hoffman as one of their most influential spokesmen. The sharp-tongued Congressman first gained attention from Fascist circles in 1937 when he had served in Congress 3 years. From that time on, Hoffman, whose arch enemies have been Roosevelt, Stalin, Britain, world cooperation, labor, and aliens, has steadily risen to top prominence with the Nazi lovers.
. . .

Today, this same Congressman is embarked on the boldest campaign of intimidation of newspapermen yet undertaken by any individual or group in the Congress, including the Committee on Un-American Activities. With few exceptions, the press whose freedom he would curb maintains a monumental silence.

After hearing the objectionable remarks, the Speaker pro tem-

15. 94 CONG. REC. 121, 80th Cong. 2d Sess.

pore⁽¹⁶⁾ granted the Member recognition.

§ 31.5 A Member having been charged in a newspaper article with seeking to pave the way for fascism rose to a question of personal privilege.

On Mar. 9, 1944,⁽¹⁷⁾ Mr. Martin Dies, Jr., of Texas, claiming the floor on a question of personal privilege, read from a newspaper article in which he was accused of seeking to pave the way for fascism in the United States. Interrupting the Member's recitation of the article, the Speaker⁽¹⁸⁾ interjected, "The Chair thinks the gentleman has gone far enough to establish a question of privilege."

§ 31.6 A statement in a newspaper article to the effect that a Member had repeated an "insinuation of Fascist propaganda concerning liberated Poland" and that he "spoke like Goebbels" was held to give rise to a question of personal privilege.

On Feb. 21, 1945,⁽¹⁹⁾ Mr. Alvin E. O'Konski, of Wisconsin, pre-

sented as involving a question of personal privilege a newspaper article which contained statements to the effect that he "had repeated a dirty insinuation of Fascist propaganda concerning liberated Poland" and that "from the tribune of the House of Representatives he spoke like Goebbels." The Speaker⁽²⁰⁾ granted the Member recognition, saying, "The Chair thinks the gentleman is entitled to speak on the question of personal privilege under the statement made by him."

§ 31.7 Language in a pamphlet charging a Member of the House with being a fascist was held to give rise to a question of personal privilege.

On Apr. 30, 1949,⁽¹⁾ the Speaker⁽²⁾ recognized Mr. Clare E. Hoffman, of Michigan, on a question of personal privilege following the Member's presentation, as the basis for raising the question, of a pamphlet identifying him as a fascist.

§ 31.8 A newspaper article charging a Member with being a fascist and asserting

16. Charles A. Halleck (Ind.).

17. 90 CONG. REC. 2434, 78th Cong. 2d Sess.

18. Sam Rayburn (Tex.).

19. 91 CONG. REC. 1323, 79th Cong. 1st Sess.

20. Sam Rayburn (Tex.).

1. 91 CONG. REC. 3955, 79th Cong. 1st Sess.

2. Sam Rayburn (Tex.).

that he stands for the violent overthrow of the government by force was held grounds for a question of personal privilege.

On Jan. 27, 1944,⁽³⁾ Mr. Clare E. Hoffman, of Michigan, on a question of personal privilege, called the attention of the House to a newspaper article which referred to him as a fascist and asserted that he stands for the violent overthrow of the government by force. The Speaker⁽⁴⁾ then recognized him on a question of personal privilege.

§ 31.9 A newspaper article asserting that a Member was wanted for questioning by a federal grand jury that already had indicted several Nazi sympathizers was held to give rise to a question of personal privilege.

On Apr. 13, 1942,⁽⁵⁾ Mr. Clare E. Hoffman, of Michigan, on a question of personal privilege, called the attention of the House to a newspaper article which stated:

Hoffman is wanted for questioning by the Federal grand jury that already

3. 90 CONG. REC. 816, 78th Cong. 2d Sess.

4. Sam Rayburn (Tex.).

5. 88 CONG. REC. 3449, 77th Cong. 2d Sess.

has indicted George Sylvester Vierick, Nazi propagandist; George Hill, Fish's former secretary-clerk; and several others for helping spread the gospel according to Hitler in the United States of America.

The Speaker,⁽⁶⁾ observing that the statement as read presented a question of personal privilege, recognized Mr. Hoffman for one hour.

§ 31.10 Newspaper remarks that a Congressman by his actions in Congress was rendering a service to nazism was held to challenge the Member's patriotism and to raise a question of personal privilege.

On May 28, 1942,⁽⁷⁾ Mr. Clare E. Hoffman, of Michigan, rose to a question of personal privilege to call attention to a newspaper article which stated "Congressman Hoffman, by his present actions in Congress, is rendering a service to nazi-ism." On hearing the objectionable language, the Speaker⁽⁸⁾ stated:

The Chair holds that the language printed in the Michigan paper, which contains the words "Congressman Hoffman, by his present actions in Congress, is rendering a service to nazi-ism," challenges the patriotism of the

6. Sam Rayburn (Tex.).

7. 88 CONG. REC. 4724, 77th Cong. 2d Sess.

8. Sam Rayburn (Tex.).

gentleman from Michigan and raises a question of personal privilege.

§ 31.11 A pamphlet charging that for four years a Member and his committee have obscured activities of the Nazi network, that their tactics have been the tactics of Goebbels and that they jeopardized national unity, gave rise to a question of personal privilege.

On Sept. 24, 1942,⁽⁹⁾ Mr. Martin Dies, Jr., of Texas, claiming the floor as a question of personal privilege, read from a pamphlet which asserted that for four years Mr. Dies and his committee had obscured activities of the Nazi network, that their tactics had been the tactics of Goebbels and of seditionists, jeopardizing national unity. Upon concluding his statement, the Member was recognized by the Speaker⁽¹⁰⁾ on a question of personal privilege.

Conduct Inimical to National Security

§ 31.12 A newspaper story to the effect that a Member was barred as a security risk from all naval districts and from witnessing nuclear tests

9. 88 CONG. REC. 7441, 77th Cong. 2d Sess.

10. Sam Rayburn (Tex.).

gave rise to a question of personal privilege.

On July 14, 1953,⁽¹¹⁾ Mr. Robert L. Condon, of California, on a question of personal privilege, called the attention of the House to two newspaper articles which asserted that not only was he barred from witnessing an atom bomb test as a security risk but also that the Navy notified the commandants of all naval districts that he was to be considered persona non grata. The Speaker,⁽¹²⁾ after ruling that Mr. Condon had presented a question of personal privilege, recognized him for one hour.

§ 31.13 Newspaper editorials charging that a Member was playing low-grade politics and that he had participated in wrecking the country's defense gave rise to a question of personal privilege.

On July 1, 1955,⁽¹³⁾ Mr. Adam C. Powell, of New York, rose to a question of personal privilege and presented two newspaper editorials charging that he was playing lowgrade politics and that he clearly had a part in wrecking the

11. 99 CONG. REC. 8790, 83d Cong. 1st Sess.

12. Joseph W. Martin, Jr. (Mass.).

13. 101 CONG. REC. 9741, 84th Cong. 1st Sess.

country's defense. In his ruling granting the Member recognition, the Speaker⁽¹⁴⁾ stated:

The Chair thinks that the editorials indicate that the gentleman from New York [Mr. Powell] is trying to wreck the defense program and entitles him to the floor on the question of personal privilege.

Collaboration With a Foreign Enemy

§ 31.14 A statement in a newspaper implying that a Member collaborated with convicted Nazi agents and indicted fifth columnists gave rise to a question of personal privilege.

On Mar. 27, 1944,⁽¹⁵⁾ Mr. Clare E. Hoffman, of Michigan, rose and proposed as a question of personal privilege to call attention to a newspaper article in which it was implied that he had collaborated with convicted Nazi agents and indicted fifth columnists. Having presented a matter of personal privilege, the Member was recognized by the Speaker pro tempore⁽¹⁶⁾ to address the House on the question.

§ 31.15 A publication stating among other things that a

14. Sam Rayburn (Tex.).

15. 90 CONG. REC. 3128, 78th Cong. 2d Sess.

16. John W. McCormack (Mass.).

Member was "working with Hitler and his agents in this country" was held to give rise to a question of personal privilege.

On Jan. 22, 1945,⁽¹⁷⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of personal privilege, read from a publication which stated that he "was working with Hitler and his agents in this country to defeat the President's policy of preparing America in the time of dangerous world conditions." In ruling on the question, the Speaker⁽¹⁸⁾ gave his opinion that Mr. Hoffman had stated a matter upon which he deserved recognition on a question of personal privilege.

§ 31.16 A newspaper article containing the statement that a labor union required no defense against a Congressman "who would cover up for a gang of conspirators against our Nation" was held to give rise to a question of personal privilege.

On Mar. 23, 1945,⁽¹⁹⁾ Mr. Clare E. Hoffman, of Michigan, claiming the floor as a question of personal

17. 91 CONG. REC. 417, 79th Cong. 1st Sess.

18. Sam Rayburn (Tex.).

19. 91 CONG. REC. 2665, 79th Cong. 1st Sess.

privilege, read from a newspaper article a statement which in reference to him said: "The C.I.O. requires no defense against a Congressman who would cover up for a gang of conspirators against our Nation." On hearing the objectionable words, the Speaker⁽²⁰⁾ recognized the Member on a question of personal privilege.

§ 31.17 A pamphlet identifying a Member and his committee as "the secret weapon with which Adolf Hitler hopes to soften up our Nation" gave rise to a question of personal privilege.

On Feb. 1, 1943,⁽¹⁾ Mr. Martin Dies, Jr., of Texas, presented as involving a question of personal privilege a pamphlet which described the Member and his committee as "the secret weapon with which Adolf Hitler hopes to soften up our Nation for military conquest." Upon his presentation of the objectionable material, the Member was recognized by the Speaker⁽²⁾ for one hour.

§ 31.18 A newspaper editorial referring to a Member as one who cooperated with the

20. Sam Rayburn (Tex.).

1. 89 CONG. REC. 474, 78th Cong. 1st Sess.

2. Sam Rayburn (Tex.).

Nazi propaganda ring was held to give rise to a question of personal privilege.

On Mar. 2, 1943,⁽³⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of personal privilege, read from a newspaper editorial the following statement:

Representative Clare Hoffman, of Michigan . . . who cooperated with the Nazi propaganda ring before Pearl Harbor, wants to investigate us.

In his ruling granting recognition to the Member, the Speaker⁽⁴⁾ declared, "The Chair thinks the gentleman states a point of personal privilege and he may proceed."

§ 32. Published Charges Impugning Veracity

Presenting Falsehoods

§ 32.1 A newspaper editorial charging a Member with falsehoods gave rise to a question of personal privilege.

On Feb. 28, 1956,⁽⁵⁾ Mr. Craig Hosmer, of California, claiming the floor on a question of personal

3. 89 CONG. REC. 1490, 78th Cong. 1st Sess.

4. Sam Rayburn (Tex.).

5. 102 CONG. REC. 3477, 84th Cong. 2d Sess.

privilege, read from a newspaper editorial charging him with falsehoods during House consideration of a certain bill. Following the submission of the editorial to the Chair, the Speaker pro tempore⁽⁶⁾ stated:

The Chair thinks the gentleman raises a question of personal privilege. The gentleman from California is recognized.

Stating Lies

§ 32.2 A newspaper article in which a statement of a Member was characterized as “an outright lie,” gave rise to a question of personal privilege.

On Mar. 11, 1957,⁽⁷⁾ Mr. Frank T. Bow, of Ohio, submitted as involving a question of personal privilege a newspaper article in which a statement he had made was characterized as “an outright lie.” The Speaker⁽⁸⁾ said:

In the opinion of the Chair the gentleman has stated a question of personal privilege.

The gentleman is recognized.

6. John W. McCormack (Mass.).

7. 103 CONG. REC. 3395, 85th Cong. 1st Sess.

8. Sam Rayburn (Tex.).

§ 33. Criticism of Members Collectively

Criticism of Unnamed Members

§ 33.1 A statement in a radio address by a cabinet officer that persons advocating a certain measure were deliberately misleading the public was held not to give grounds for a question of personal privilege to a Member who had advocated the measure, but who had not been named in the address.

On Apr. 17, 1935,⁽⁹⁾ Mrs. Edith Nourse Rogers, of Massachusetts, as an advocate of the repeal of a certain textile processing tax, presented as involving a question of personal privilege the statement made during a radio address by a cabinet officer that persons advocating the repeal of the tax were deliberately misleading the public. A point of order was made by Mr. Hampton P. Fulmer, of South Carolina, that she had not stated a question of personal privilege. In his ruling sustaining the point of order, the Speaker⁽¹⁰⁾ stated:⁽¹¹⁾

9. 79 CONG. REC. 5854, 5855, 74th Cong. 1st Sess.

10. Joseph W. Byrns (Tenn.).

11. 79 CONG. REC. 5855, 74th Cong. 1st Sess.

The Chair will state that the rule provides that a Member may rise to a question of personal privilege where the rights, reputation, and conduct of Members in their individual capacity only are assailed.

The name of the gentlewoman from Massachusetts was not mentioned, in the first place, and the Chair fails to see where there is a question of personal privilege involved in the statement referred to by the gentlewoman from Massachusetts, and therefore must, of course, rule that she has not raised a question of personal privilege.

§ 33.2 A newspaper article charging Members of the House with demagoguery and willingness to punish the District of Columbia was held a criticism of the House and not to constitute a question of personal privilege.

On May 21, 1941,⁽¹²⁾ Mr. Clare E. Hoffman; of Michigan, rose to a question of personal privilege and read from a newspaper article which charged the Members of the House with demagoguery and with a willingness to punish the District of Columbia to win votes at home. After the submission of the article for the Chair's inspection, the following exchange occurred:

THE SPEAKER:⁽¹³⁾ Where does the article refer to the gentleman from Michigan personally?

12. 87 CONG. REC. 4307, 4308, 77th Cong. 1st Sess.

13. Sam Rayburn (Tex.).

MR. HOFFMAN: It does not so refer, but it refers to all those Members of the House who voted in opposition to that bill. . . .

THE SPEAKER: The Chair will read that part of the rule which affects Members, so far as personal privilege is concerned:

Second, the rights, reputation, and conduct of Members individually in their representative capacity only.

There is nothing in this matter that refers to the gentleman from Michigan [Mr. Hoffman] either individually or in his official capacity. The Chair would hesitate to hold a question of personal privilege of Members of the House lies in a general criticism of the action of the House. Therefore, the Chair is inclined to hold that the gentleman has not stated a question of personal privilege.

§ 33.3 A newspaper article incorporating the statement that anyone who charged the CIO with communistic control was "a knave, a liar, and a poltroon," was held not to give rise to a question of personal privilege.

On Mar. 27, 1939,⁽¹⁴⁾ Mr. Clare E. Hoffman, of Michigan, rising to a question of personal privilege, called the attention of the House to a newspaper article quoting labor union leader John L. Lewis as saying that anyone who charged the CIO with com-

14. 84 CONG. REC. 3362, 76th Cong. 1st Sess.

munistic control was “a knave, a liar, and a poltroon,” it being acknowledged that the Member had made such charges in debate on June 1, 1937. After the Member’s presentation of the question, the Speaker⁽¹⁵⁾ made the following statement:

The Chair is ready to rule on this question of personal privilege presented by the gentleman from Michigan.

The question now raised is the following language that was purported to have been quoted in the March 23, 1939, issue of the New York Times as coming from John L. Lewis, chairman of the Congress of Industrial Organizations:

Maintaining that the C.I.O. was an American institution, Mr. Lewis denied that it was controlled by

Communists, saying that anyone who charged such communistic control was a knave, a liar, and a poltroon.

The gentleman from Michigan takes the position that because of something that he may have said heretofore on the floor of the House, brings him within the purview of the definition given by Mr. Lewis. But in the language quoted there is certainly no reference to any particular individual. The gentleman is not named, and for aught appearing in this statement that has been made, the gentleman who is quoted may have been referring entirely to some other individual or some other group of individuals rather than the gentleman from Michigan.

The Chair is clearly of the opinion that it would be stretching the rule too far to construe the general statement here made as giving the gentleman from Michigan a question of privilege.

15. William B. Bankhead (Ala.).